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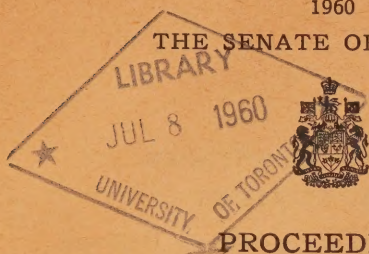




Third Session—Twenty-fourth Parliament

1960

THE SENATE OF CANADA



Government  
Publications

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

# EXTERNAL RELATIONS

on Bill S-35, intituled: "An Act respecting the International Boundary Commission"

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THURSDAY, JUNE 23, 1960

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The Honourable NORMAN P. LAMBERT, *Acting Chairman*

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## WITNESSES:

Mr. A. F. Lambert, Commissioner, International Boundary Division;  
Mr. J. H. Cleveland, Director of the American Division, Department  
of External Affairs; Mr. G. Douglas McIntyre, Solicitor, Customs and  
Excise Division, Department of National Revenue.

## REPORT OF THE COMMITTEE

THE QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1960

THE STANDING COMMITTEE ON  
EXTERNAL RELATIONS

The Honourable Gunnar S. Thorvaldson, *Chairman*

The Honourable Senators

\*Aseltine  
Beaubien  
Boucher  
Bradette  
Bradley  
Crerar  
Croll  
Farquhar  
Farris  
Fergusson  
Fournier  
Gouin

Haig  
Hardy  
Hayden  
Horner  
Howard  
Hugessen  
Jodoin  
Lambert  
Lefrançois  
MacDonald  
\*Macdonald  
McLean

Monette  
Robertson  
Savoie  
Taylor (*Norfolk*)  
Thorvaldson  
Turgeon  
Vaillancourt  
Veniot  
Vien  
Wall  
White  
Wilson (34)

(Quorum 7)

35 members.

\*Ex officio member



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## ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate for Tuesday, June 21st, 1960.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Blois, seconded by the Honourable Senator Choquette, for second reading of the Bill S-35, intituled: "An Act respecting the International Boundary Commission".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Blois moved, seconded by the Honourable Senator Buchanan, that the Bill be referred to the Standing Committee on External Relations.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEIL,  
*Clerk of the Senate.*





## MINUTES OF PROCEEDINGS

THURSDAY, June 23, 1960.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 10.30 a.m.

*Present:* The Honourable Senators Aseltine, Beaubien, Crerar, Croll, Fergusson, Hugessen, Lambert, Macdonald, Taylor (*Norfolk*), Turgeon, Veniot and White—12.

In the absence of the Chairman and on Motion of the Honourable Senator Beaubien, seconded by the Honourable Senator Aseltine the Honourable Senator Lambert was elected acting chairman.

*In attendance:* Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel. The Official Reporters of the Senate.

Bill S-35, An Act respecting the International Boundary Commission was read and considered clause by clause.

*Heard in explanation of the Bill:* Mr. A. F. Lambert, Commissioner, International Boundary Commission; Mr. J. H. Cleveland, Director of the American Division, Department of External Affairs; Mr. G. Douglas McIntyre, Solicitor, Customs and Excise Division, Department of National Revenue.

On Motion of the Honourable Senator Macdonald, seconded by the Honourable Senator Aseltine, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the proceedings on the said Bill.

It was resolved to report the said Bill without any amendment.

At 12.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,  
*Clerk of the Committee.*



# THE SENATE

## STANDING COMMITTEE ON EXTERNAL RELATIONS

### EVIDENCE

OTTAWA, Thursday, June 23, 1960.

The Standing Committee on External Relations to which was referred Bill S-35, respecting the International Boundary Commission, met this day at 10.30 a.m.

Senator Norman P. Lambert in the Chair.

(Coloured Slides were shown by Commissioner A. F. Lambert.)

The ACTING CHAIRMAN: Honourable senators, we will now proceed with the agenda. If it is agreeable to the committee, I would suggest that we hear from Mr. J. H. Cleveland, of the Department of External Affairs, who can throw a good deal of light on the treaties and agreements that have resulted in the boundaries being determined. Is it agreeable to hear Mr. Cleveland?

Senator REID: Perhaps Mr. Cleveland could tell us the reason for the bill now being brought forward after the commission has been in effect for many years? Why is the bill thought necessary.

Mr. J. H. CLEVELAND (*Head of American Division, Department of External Affairs*): Honourable senators, as a result of the treaties of 1908 and 1925 boundary commissioners were appointed, which of course is done under domestic law. The boundary commissioner is an official of the Department of Mines and Technical Surveys, and necessary funds are provided each year in the estimates. So, it was possible administratively to carry out the marking of the boundary and maintenance of it. However, in recent years the boundary commissioner has been troubled in his mind after having discussed the matter of the extent of his authority with the Department of Justice and the Department of External Affairs. When that was examined, it appeared that there was no clear statutory effect given to the treaties.

As you know, in the United States a treaty is submitted to the Senate of that country, and after receiving a two-thirds vote of the Senate it becomes the law of the land without any further legislative action. In Canada, of course, the treaty does not have a self-implementing effect.

As I said, certain aspects of the treaty may be implemented through administrative means, and through the authority which already exists in other legislation setting up Government departments. However, there were certain deficiencies in the statutory provisions which failed to give clear statutory effect to the existing practices.

As has been seen in the pictures which Commissioner Lambert has shown, the boundary has in fact been demarcated; the vista is there, and there are only a small number of major obstacles on the boundary at the present time. I believe there are about 50 structures of any size on the boundary at this time.

However, in order to avoid a situation in which the practice might be challenged of clearing the boundary vista and maintaining it and going on land in order to place reference points it was considered desirable to seek clear statutory authority to protect the existing practice and to ensure that in future there would not be any additional encroachments which would interfere with the maintenance of the vista.



Senator HUGESSEN: That raises the whole question of treaties and the executive power to make treaties and the power of Parliament either to implement them or not to implement them. I gather that under our political system our executive can make any treaty that it likes. It does not need to go to Parliament for power to make a treaty, but, once having made the treaty, that treaty is not in any way binding on any of the subject of Her Majesty unless and until and to the extent that it has been implemented by legislation. Is that right?

Mr. CLEVELAND: That is it.

Senator HUGESSEN: Here we have this treaty which Parliament has never had anything to do with up to now. You have gone ahead under the treaty, you have cleared a boundary line, you built monuments and have done various things to people's private property, and I believe it was the right of anybody in the last 50 years to dispute your right to do that and he would have won his case in court if he had decided to go there. Isn't that the case?

Mr. CLEVELAND: Senator Hugessen, I would like to give a legal opinion on the subject but certainly that is the concern which has occurred to the officials of the departments concerned in examining the matter in recent months, and for that reason it was desired to do two things, one to make sure that Canada was able to clearly implement its international treaty obligation.

Senator HUGESSEN: Of course the United States is able to do that in view of the American situation you referred to?

Mr. CLEVELAND: Yes, automatically. And secondly, to give adequate protection to the boundary commissioner who might otherwise find himself in a very embarrassing position.

Senator CROLL: It occurs to me while you are at it, in view of what you have said, the boundary commissioners over a period of years had done many things and did it all quite honestly and fairly in their own light. Is there any way that we cover by this bill the acts that have been already done so as to give them some authority and at least protect the officials?

Mr. CLEVELAND: No, Senator Croll, there is no retroactive provision. However, I think that is adequately covered by the fact that the commissioners have been gentlemen throughout and have always gone by permission, asking "May we come on the land today?" And Canadian citizens all across the boundary have co-operated fully and said, "Why, certainly, go down and carry out your duty under the treaty."

Senator REID: Suppose we take the case of a house that is built on land close to the border. Of course it has to be located in one of the provinces and the land on which that house is built is under the jurisdiction of the province. If a man has his house built partly on the 10-foot width of the boundary what rights have you to remove that? Have you had any power in the past to do it?

Mr. CLEVELAND: No.

Senator REID: I don't think you did.

Mr. CLEVELAND: Only in one instance and that is if an offence against the Customs Act is committed with respect to a structure on the boundary, in which case there are certain steps that can be taken.

Senator HUGESSEN: But that would come under other legislation.

Mr. CLEVELAND: Yes. That is the exception to the situation with respect to the removal of structures.

Senator REID: Is it proposed to clear that matter up by this bill?

Mr. CLEVELAND: In relation to proposed future structures this bill would cover it. But with respect to structures already existing they would remain unaffected.

Senator MACDONALD: Now I come to the question I was asking Mr. Lambert and that is with respect to certain billboards which are now on this 20-foot skyline vista. After this legislation is passed will the commission have authority to remove those billboards? They are structures which are on the area?

Mr. CLEVELAND: No, sir.

Senator CROLL: Under section 4?

Mr. CLEVELAND: Section 4 refers only to any work or any addition to a work that is, after the coming into force of this act constructed".

Senator HUGESSEN: So you can prevent billboards being erected in future but cannot interfere with ones there already.

Mr. CLEVELAND: That is right. The intention under this bill is not to interfere with the past in any respect. That would have to be done by persuasion or by deterioration due to time. As a matter of fact, over the past few years something like 25 permanent structures have been removed from the boundary either because their owners have torn them down, because it was a barn perhaps that had been there for a century, or because they had been acquired in some instances by the Department of National Revenue in order to make use of that area for customs purposes. In consequence, rather than get into a somewhat difficult situation with respect to the removal of present structures, the feeling was that it would be possible to live with them and let them gradually disappear.

Senator REID: May I ask a question regarding the line in Section 3, on a subject which has interested me a great deal. You probably know that Canada lost half a mile of land from the boundary at Point Roberts while the Americans also made a mistake and were a mile in on Canadian territory in the east. That is the history of it. Might I ask if you are acquainted with it? My question is this: Has the American Government by order in Council or by legislation agreed to that mistake? Canada did it just by order in council and I always claimed that was not the proper way to do it, that it should have been done by way of an Act of Parliament. A half mile was involved and we should have been that half mile further south into Blaine County.

Mr. CLEVELAND: I am not familiar with the details of the actual marking. I know, as Commissioner Lambert was mentioning, with respect to some of the photographs he was showing, there had to be certain adjustments made in the marking of the boundary line at the western end.

Senator REID: It is not the actual marking I am interested in.

The ACTING CHAIRMAN: Senator Reid, I think Mr. Lambert might answer that question a little later as he knows the details of the markings.

Senator REID: I would like to have an answer before we are through.

Senator TURGEON: Mr. Cleveland, have there been any conversations lately so far as you know, between Canada and the United States with respect to Canada's access across the Alaska panhandle through corridors of free ports?

Mr. CLEVELAND: There have been no formal conversations. I hope you do not mind my saying that but there are a large number of matters which you might say are under review and discussed between officials of the two Governments, and this is one question which has a live file on it. The question comes up and is mentioned from time to time but there has not been anything in the nature of a formal discussion.

Senator TURGEON: But there have been informal talks about it?

Mr. CLEVELAND: Yes.

Senator REID: I would like to learn something about the Boundary Bay post. There is a great deal of criticism regarding that post. I wonder if you are acquainted with that eastern marker at Boundary Bay?

Mr. LAMBERT: Do you refer to Monument One?

Senator REID: I am referring to the marker on the land at Boundary Bay, at Point Roberts.

Mr. LAMBERT: Well, that marker was placed in 1859 or 1860. It was set by the British and United States commission at that time. The determination of the 49th parallel was made by instrument, by astronomic means, the only means available to them. Scientifically independent determinations made by both countries were calculated, and an agreement was made as a result of the observations. It was extremely close and as was the custom, if the determination of the spot on the 49th parallel by each commission would differ by 12 feet to 14 feet, which is an instrumental error, an observer's error, and considering the type of observation, they would split that difference and set their monument on the average.

Senator REID: That is not the question I asked you. I am asking about the Boundary Bay monument that is there now. I am telling you there have been complaints by residents there about the land being built up around it. I think you can hardly see the boundary markers.

Mr. LAMBERT: On the United States side I understand that there has been a reservation made for the park south of this monument. On the Canadian side there were certain people in British Columbia very interested in trying to protect that place and get a park established on this side. We were equally interested in the project. I believe they asked the National Parks Board to consider marking it an historic site and I believe they were informed at that time that they had an historic site in Blaine in the Peace Park and were therefore not willing to establish one on Point Roberts. Meantime they sought to interest other agencies to purchase the land on which they could maintain a park but they were unsuccessful, and I think they tried to interest the provincial Government but were equally unsuccessful there. We would have been very happy in the Commission if someone had taken over that area and made a park out of it, but I believe a man named Walter Jordan sold the property and it was developed as real estate.

I have seen the house that was built there and it is about ten feet north of the line. Our vista is clear but that is all, just clear.

Senator HIGGINS: Is there any case where the boundary line goes through a house?

Mr. LAMBERT: Yes, sir.

Senator HIGGINS: What do they do in a case where they have Canadian whisky on one side and American whisky on the other. I suppose on the Canadian side they are only allowed to use Canadian whisky.

Mr. LAMBERT: I imagine it is a precarious position. If your kitchen is in the United States you must use an American refrigerator, and if your living room is in Canada you have to use a Canadian television set. If you are caught with contraband the Customs can take down your house.

Mr. CLEVELAND: Mr. McIntyre of the Department of National Revenue is here. He could give the Customs answer to that question.

Senator HIGGINS: Supposing a man buys a Canadian TV set and puts it on the American side of the house. What happens?

Mr. MCINTYRE: That is the responsibility of the American Customs. If the man buys an American TV and moves it into the Canadian side of the house then our department is concerned about it. We would collect customs duties



and taxes on it. We have had quite a lot of trouble with respect to smuggling in these line houses and that is why our department is interested in this bill. There is a provision in the Customs Act, section 197, which reads:

"197. (1) If any imported goods seized in any building within one hundred yards from the frontier between Canada and any foreign country are forfeited according to law, such building shall also be seized and forfeited, and shall be forthwith taken down and removed."

We have had several buildings removed in that way. As a matter of fact, there was one building where we found evidence of smuggling and the man was convicted and the building was right on the line. The half of the building which was on the Canadian side was torn down, and the other half remains on the American side. Usually the whole building is taken down but there have been instances where just one-half is removed.

Senator REID: Have you the right to enter a house and investigate?

Mr. McINTYRE: Oh, yes. If any portion of it is on the Canadian side we certainly are very much concerned, for there have been a lot of people who have written to us from time to time wanting to put up all sorts of structures right on the border. There is one big company in British Columbia that wants to put a large building right astride the boundary. That would lead to great danger and risk of smuggling there. It would be very difficult for us to administer the Customs Act in that portion of the country if that building were to go up there.

Senator HUGESSEN: So you are very interested in getting this bill passed?

Mr. McINTYRE: Yes, sir. As a matter of fact, people have been putting a lot of pressure on us. We have received letters from lawyers who suspect strongly that we have no legal right to stop their clients. We have been holding them at arms length hoping that you gentlemen will put this bill through as soon as possible.

The ACTING CHAIRMAN: I was going to suggest that the information interpolated here has been very interesting but I think we should organize this discussion a little more systematically. I would suggest that we let Mr. Cleveland proceed with his description and discussion of the historical background and the special features of it relating to customs or the operation of the Commission in its work could be taken up later. If that is agreeable to the committee I would suggest we let Mr. Cleveland conclude what he has to say.

Hon. SENATORS: Agreed.

Mr. CLEVELAND: The question was raised earlier concerning the definition of the word "boundary," which is section 2(a) of the bill. The boundary is described as "the international boundary between Canada and the United States of America as determined and marked by the Commission". If the actual boundary were to be spelled out it would take many pages and it would have to be a repetition of the treaties of 1908 and 1925. The treaty of 1908 picked up a large number of treaties and agreements that had been made over the preceding several centuries and collected them in one place and described the boundary line by sections.

The first section is the boundary through Passamaquoddy Bay. The second one is from the mouth to the source of the St. Croix River. The third is from the St. Croix River to the St. Lawrence River. The fourth is from the St. Lawrence River to the mouth of the Pigeon River. The fifth is from the mouth of the Pigeon River to the northwesternmost point of the Lake of the Woods.

I might say this has provided an anomaly because there is a little piece of the United States away up in the middle of the Lake of the Woods as a result of something that happened many, many years ago.

The sixth is the boundary from the northwesternmost point of the Lake of the Woods to the summit of the Rocky Mountains.

The seventh is the boundary from the Forty-ninth Parallel to the Pacific Ocean, to which Senator Reid has referred. In addition, there are two further sections, the southeast Alaska boundary and the 141st meridian boundary.

The ACTING CHAIRMAN: May I ask you whether the line from the northwesternmost point of the Lake of the Woods to the summit of the Rocky Mountains would proceed along the Forty-ninth Parallel?

Mr. CLEVELAND: That would be right.

The ACTING CHAIRMAN: The Forty-ninth Parallel—

Mr. CLEVELAND: Is the boundary for the Prairie provinces. The boundary goes due south from the northwesternmost point of the Lake of the Woods until it meets the Forty-ninth Parallel and then it proceeds westerly along the parallel.

Senator MACDONALD: Does it go through the centre of Lake Erie?

Mr. CLEVELAND: It goes through the centre although, for practical purposes, subject to correction by Mr. Lambert, the boundary proceeds by a series of straight lines. As you can imagine, it is not possible to draw a single line showing the actual, continuous mid-point of a lake whose shores are not regular.

Senator MACDONALD: After it leaves Lake Erie it goes through the St. Mary River, I suppose? It would go up past Detroit into Lake Huron.

Mr. CLEVELAND: Through Lake St. Clair and the St. Clair River to Lake Huron.

Senator MACDONALD: Does it go through the centre of Lake Huron?

Mr. CLEVELAND: The mid-point.

Senator MACDONALD: And then Sault Ste. Marie?

Mr. CLEVELAND: Right.

Senator MACDONALD: And then from Sault Ste. Marie to Lake Superior. Does it go through the centre of Lake Superior?

Mr. CLEVELAND: To the Pigeon River.

Senator MACDONALD: Does it go through the centre of Lake Superior?

Mr. LAMBERT: The Pigeon River, of course, is a little around from the southwestern tip of Lake Superior.

Senator MACDONALD: Isn't the Pigeon River north, to some extent, of the centre line from Sault Ste. Marie through to Lake Superior?

Mr. LAMBERT: By treaty the Pigeon River was the target they were heading for. That seems to be the point.

Senator MACDONALD: The line appears to go through the centre of Lake Erie and the centre of Lake Huron and when you come to Lake Superior you divert off to the north, and it does not go through the centre of Lake Superior.

The ACTING CHAIRMAN: I think Senator Macdonald is pointing out that the line did not proceed through the centre of Lake Superior to Duluth and the Arrowhead but was diverted. That is part of the result of not knowing what lay there at the time, I think, and we were a simple, humble, inexpressive colony at that time and the details of that boundary line under the Webster-Ashburton Treaty was decided by the United States and Great Britain, and that was the reason why the line did not proceed to the Arrowhead and then west, which would have come out around Portland, Oregon, at the mouth of the Columbia River. So we can write all that off as part of history now, and I think the best thing we can do is to take the boundaries as they were set before we became a self-governing dominion.

Mr. CLEVELAND: In confirmation of that, Article IV of the 1908 treaty refers to the boundary line following the line described in the Treaty of Peace

of September 3, 1783, and a portion of such line in Article II of the treaty of August 9, 1842, the treaty to which you referred, and that takes you to the mouth of the Pigeon River.

Senator HIGGINS: Has the whole boundary line been settled now, sir?

Mr. CLEVELAND: The entire land boundary line has been demarcated. The entire boundary line has been agreed on but there is one section extending from the West Coast of British Columbia into the ocean which is a part of the Alaska boundary award, which has not been demarcated.

Senator HIGGINS: The bill describes the "boundary" as meaning the international boundary between Canada and the United States of America as determined and marked by the commission. Would it not be better to say "Marked in accordance with the treaties made between the two countries"?

Mr. CLEVELAND: I think, sir, the point is that in order to be able to have certainty it is desirable to refer to the actual marks on the ground, the boundary monuments, and so on. If there is to be any change made; for example, if Canada were to consider that the boundary line was not in the correct place, in the first instance, the boundary commissioners would be asked to look into it. If there were disagreement between them, then governments would have to take it up and agree by treaty just where that actual point was. Otherwise, as you said, if the boundary was the boundary as set out in the treaty, then each individual would have to find the boundary for himself. I think from the point of view of any question that might arise in a court of law there is a considerable advantage in being able to refer to the boundary as marked, rather than to the boundary as described in the treaty.

Senator HIGGINS: You mean marked by the commissioner in the past or in the future?

Mr. CLEVELAND: Well, as marked by the Commission at the pertinent time,—as from time to time it is marked by the Commission.

The ACTING CHAIRMAN: I suppose there is a definite engineering and scientific description of the boundary line in existence. That is what you are asking, Senator Higgins, is it not? There should be a definition somewhere in the records of engineering and scientific certainty that would describe the boundary line. Well, then it is the duty of this Boundary Commission to mark that scientific description.

Senator HIGGINS: I am only going by the words of the Commission. This description and interpretation is too narrow, is it not?

Mr. CLEVELAND: I think the advantage lies with certainty. because by following this definition any individual can ascertain precisely where the boundary is. For example, if a man were to build a house ten feet away from the boundary marker he would assume that he was in compliance with the law. If, however, by subsequent re-survey it was found that that boundary mark was one foot out, then if you said that the reference was to the treaty description he would have offended against the law, whereas if in good faith he keeps ten feet away from the boundary line, as marked under this bill he would be protected.

Senator REID: How do you describe a boundary line that is not the 49th parallel? I can understand how you can describe it by marks, a mark here and a mark there, but I am interested in how you would describe the one in British Columbia, where it is not the 49th parallel.

Mr. CLEVELAND: Well, I think that is the advantage of referring to the boundary as being the line that is marked. It saves a good deal of argument, and indeed it could cause considerable legal embarrassment if there were honest differences of opinion as to where the line should be. As I say, it might be only a matter of a foot, but it could make a major difference.



Senator REID: The word "boundary" is used, for instance, in constructing a work ten feet of the boundary.

Mr. CLEVELAND: The word "boundary", sir, is a word which is used in international law. Certainly the definition of it would be a line that has no width and therefore would not be a boundary monument, but would be the precise mark.

Senator REID: Then a person could construct ten feet from the boundary mark. It says in section 5 of the bill that no person shall "construct or place within ten feet of the boundary any work or any addition to a work..." I am not a lawyer, but as a layman I think there should be a boundary mark there. A person could build within ten feet.

Mr. CLEVELAND: On each of these boundary markers there is a hairline point, isn't there, which indicates where the actual boundary is, because the boundary marker itself obviously has a measurable width, whereas there is what you might call a hairline point marking the actual boundary.

Senator REID: If I am looking at the boundary post I am not supposed to come closer than ten feet, but I cannot come within ten feet?

Mr. LAMBERT: I think that is correct, sir; that is the meaning.

Senator REID: That is the meaning?

Mr. LAMBERT: Yes.

The ACTING CHAIRMAN: About as vague as the Green Belt of Ottawa.

Senator MACDONALD: If there are no further specific questions, I was going to ask a general question of the witness with regard to treaties. I have been informed that there are a number of treaties apart from this treaty, which have not been implemented by legislation. For instance, there has been brought to my attention that the Treaty of Versailles was never implemented by legislation. Why, I do not know. If I remember correctly, it was not implemented in the States or elsewhere.

Mr. CLEVELAND: To answer the question on that particular point I can only give a quick opinion on it. I have not looked into it, obviously. But I would say that there was probably no need for legislation implementation of the treaty. If everything that had to be done under the Treaty of Versailles was in fact within the executive power of the Government, then there would be no need for implementing legislation, just as there is no need for legislation in order to appoint a boundary commissioner; a boundary commissioner is an official of the Government of Canada, and I suppose if any specific authority is needed it could be found in the acceptance of the estimates, which is sometimes taken in lieu of specific legislation. So that by administrative means many treaties could probably be implemented. For example, there are agreements which have a little less solemnity than treaties which are entered into frequently through the executive power of the Government, as you know; exchanges of notes take place on many, many matters which do not require any specific legislative implementation or the legislative implementation may take place in a statute which is passed for quite other purposes, but it may be consistent with the international agreement.

Senator MACDONALD: I can follow that, especially in connection with the Treaty of Versailles, but not so easily in connection with a treaty where a commissioner has been appointed, and a number of employees have been hired, and a number of other officers have been appointed and have been acting for the Government of Canada during all these years without the necessity of a bill having been passed empowering them to do so. Is this an unusual case, or do you know if there are many others? For instance, may I refer to the Telecommunications Agreement. Now, my information is that that treaty or agreement was never tabled in the house, although

presume it would affect private individuals. Then there is the International telecommunications Convention; this was not tabled in the house until 1955, and yet came into force in 1954. Then there was the 1937 Commonwealth telecommunications Agreement, and I understand that it is very difficult even to get a copy of that agreement. As I say, these things have come to my attention. Members of the legal profession have stated that there are a number of agreements which have not been implemented and yet are in effect in Canada and which the profession have difficulty in getting copies of.

Mr. CLEVELAND: Well, senator, there are two points there, and I might refer to the last mentioned point first. In the Treaty Section of the Legal Division of the Department of External Affairs arrangements are made for the publication, as you know, of the treaty series. That has been going on for a few years now. I think you will find all of these documents are, or should have been, published in that series. If, however, through an oversight one is missed then sometimes it is picked up in a subsequent year, but that is the way in which they are made public. There is an actual physical publication of them.

Senator MACDONALD: The practice is that, but it may be that unintentionally some of them have not been made public.

Mr. CLEVELAND: That could be, sir, particularly, I think, if an agreement was negotiated largely by other departmental officers. Officers of the Department of External Affairs are very conscious of the need for the registering of their treaties with the legal division, and there should always be someone in the Department of External Affairs concerned with each of these, but at some stage it may be possible that someone through an oversight did not ask to have a particular agreement registered as a treaty and published in the treaty series.

Senator MACDONALD: Then, may I refer to my first question? Does the witness know of other treaties similar to the one which we are considering, under which the Government has retained officers similar to the Commissioner and which have not been implemented by legislation?

Mr. CLEVELAND: That would not come within my purview, senator, so I would say: "No", but that does not prove the negative.

The ACTING CHAIRMAN: I was going to suggest to Senator Macdonald that the point he is raising will be taken into consideration by the witness and communicated with his department so that the documents to which reference is made, and which undoubtedly are of increasing importance in the legal profession's mind, at any rate, in this country, might be organized in such a way that they be made available to the profession more systematically than at the present time. I think that point is the one that your letter suggests.

Senator REID: Does your Commission handle the line between the United States and Canada up north?

Mr. CLEVELAND: In Alaska? That part is covered by the International Boundary Commission.

The ACTING CHAIRMAN: At any rate, the point that has been made by Senator Macdonald is something which I think is a little outside of the compass of this bill, but we will put it in for added measure, anyway, and let Mr. Cleveland do his best to meet the suggestion which has been raised.

Senator MACDONALD: I appreciate the generosity of the chairman in allowing me to bring that matter forward.

Senator HUGESSEN: Could I raise one further point along the lines of Senator Macdonald's question? I wonder whether the witness can tell us whether there has been any recent change in departmental policy in regard to submitting treaties to Parliament. It seems to me that in the last few years

we have had a good many more treaties submitted, and had the Treaty of 1901 been submitted to the Parliament of that day this legislation might have been unnecessary.

Mr. CLEVELAND: Well, I shall have to leave the matter of policy to my minister.

Senator HUGESSEN: Well, I should have said "practice". What is the practice?

Mr. CLEVELAND: I think the answer is that in practice there are two things happening. One is that there are many more international agreements to which Canada is a party coming along, because, as you know, it is only within the last forty years that Canada had occasion to be an independent party to an agreement.

Senator HUGESSEN: There was the Halibut agreement?

Mr. CLEVELAND: Yes, a bilateral agreement, and then when we became a member of the International Labour Organization which was our first venture on our own. Accordingly, it has only really been in very recent years that there has been this multiplicity of agreements of many kinds, some of which are treaties, some of which are multilateral conventions, some under the United Nations and some not, and some of which are exchanges of notes and so forth. Accordingly, the number has increased very greatly.

I think another reason is that the Department of External Affairs was very tiny up until World War II, and it is since that time that, perhaps, Parkinson's law has come into effect, and there have been more agreements as a result.

Senator MACDONALD: But it has never been implemented by legislation.

Mr. CLEVELAND: Yes.

Senator ASELTINE: That is correct.

The ACTING CHAIRMAN: Senator Hugessen's question has been answered in the affirmative.

Mr. CLEVELAND: Yes, I believe there has been a considerable increase in volume. There are many, many agreements, and, as a matter of fact, one of the questions that always arises is this: Does this agreement require presentation to Parliament and, more than that, does it require implementing legislation, or is the present legislation adequate to cover the situation?

The ACTING CHAIRMAN: Are there any other questions on this point?

Senator BEAUBIEN: I think we had better go on with the bill.

The ACTING CHAIRMAN: Mr. Lambert might want to answer a few more questions in reference to his pictures. Perhaps, Mr. Cleveland, you would stand by and give us the advantage of your judgment on some of these other matters. Do you wish to add anything to what you have said? I think Mr. Lambert, the Commissioner, could give us a little enlightenment on the procedure of operation between the two branches of this commission. On each side there is a ten-foot strip of land, and collectively and co-operatively, I think I am right in assuming, they work together. In certain sections the American part of the Commission would keep certain vista lines clear on the whole twenty feet, and the Canadians would do likewise in other parts. I think that is important to emphasize the extent to which the two branches of this commission are co-operating.

Senator ASELTINE: They work together?

The ACTING CHAIRMAN: Yes.

Mr. LAMBERT: Just before beginning I might say that these photographs that you see at the end of the room have been put together to cover various aspects of our work, and to show you the problems that you have been hearing about and to show you some of the obstructions and some of the things we do.



Senator REID: You have no picture of the Peace Arch there.

Mr. LAMBERT: Yes, sir, it is over there as an example of a desirable boundary development. Next to it are some of the less desirable. It could not pass without being in this array of pictures.

As to the workings of the Commission I might just say that when we send out a party to cut the vista it obviously cuts on both sides of the line. Our party in British Columbia cuts a vista twenty feet wide. They have special letters from the Department of National Revenue which gives them permission to cross and re-cross the border without the necessity of reporting every crossing to Customs.

Senator MACDONALD: They do not pay duty on their axes?

Mr. LAMBERT: We were asked at one time to pay duty on cement, and we established the principle that if it is for international purposes it is possible to use it without being in that unhappy position. We cut both sides of the line when we are on the job, and the United States party cuts on both sides of the line when they are on the job. From year to year we plan our work ahead for this summer and the next summer, and decide which parties go where. We keep track of what is done, what should be done, with respect to opening vistas. The other part of the work is with regard to surveys when necessary. One very pleasant bit of work in the last two summers has been the re-establishment of monuments on the St. Lawrence River. In this case monument sites were destroyed by flooding, and had to be re-established by monuments of the same type.

Each summer the American Commissioner and I visit the field parties and inspect their work, and also visit any other point on the boundary which may be of interest because of specific changes which we may wish to examine.

I just heard yesterday that we may lose one range mark down at Campobello Island because a new bridge is going in there. We will most certainly be looking into this and see what is to be done about replacing it.

The ACTING CHAIRMAN: If it comes to a question of intervening in private property rights where there is an infringement on the strip, is there any understood procedure between your Canadian group and the American group as to dealing with a situation of that kind?

Mr. LAMBERT: I would say that whenever any request comes in to deal with the proposal to construct something near the boundary or upon the boundary, no matter from what direction, each Commissioner always brings it to the attention of the other Commissioner. If there is a request received in the United States from Montana to establish an air strip along the boundary, we get the correspondence, and the answer that goes out to them is that this also concerns Canada. The Commissioners will inform them as to what the decision is. In the past they have sent joint letters to various organizations who asked for special privileges, such as the privilege of establishing an air strip on the 49th parallel.

The ACTING CHAIRMAN: Those things are all covered by a joint presentation?

Mr. LAMBERT: Yes. We do not take individual or unilateral action in these matters; we keep in consultation, and I might say, we think alike.

The ACTING CHAIRMAN: Do you feel this legislation, in pin-pointing the powers that enable you to deal more effectively with this thing, will be a help from an administrative standpoint?

Mr. LAMBERT: Yes. We have been told that we do not have the power to prohibit anything. So, when a request comes in, we say that we regret that we are unable to permit it; but we could also say that we regret we are unable to prohibit it. We are in that unhappy position at the moment.

The ACTING CHAIRMAN: What about your opposite numbers in the United States in that regard? Mr. Cleveland has already shown the constitutional distinctions between the two. But would this legislation in any way emphasize any distinction between the Canadian group and the American group in dealing with this problem of the boundary? Would the Americans be inclined to get specific legislation too, to correspond with this proposed measure?

Mr. LAMBERT: Of course the treaty says that the American Commissioner is empowered to do certain things. Until this legislation goes through, it seems that the Canadian Commissioner does not have those powers that are specified in the treaty.

Senator MACDONALD: You have been at a disadvantage compared with the American Commissioner.

Mr. LAMBERT: The doubt existed in our mind, and we finally asked and were told that we did not have these powers.

Senator HUGESSEN: There is no question in your mind that the Commissioner on the American side has all these powers?

Mr. LAMBERT: He has all the powers under the treaty, and we agree on these instructions. At the time we requested information as to our specific powers, the United States Commissioner also wrote to his State Department asking as to his powers. While he has not obtained legislation such as this now proposed, there is that difference. I am sure he would indeed be interested in this legislation, because of the specific nature it takes.

Senator HUGESSEN: It would be interesting if he could get an opinion from his Department of State that he has the same powers that we propose to confer on you.

Mr. LAMBERT: Yes.

Senator REID: In your opinion is there any likelihood that the United States will pass similar legislation?

Senator HUGESSEN: It may not be a question of legislation, Senator Reid. It may be that the treaty is part of their law, and if the State Department says that under the treaty the American Commissioner has the same power as the Canadian Commissioner will have under this legislation, they do not need legislation.

The ACTING CHAIRMAN: It seems to boil down to this: our Canadian representatives on the Commission have not had the power that their opposite numbers in the United States have had. So, it is perhaps about time this legislation was put through.

Senator HIGGINS: Section 3 of the bill provides that for the purpose of maintaining an effective boundary the commission may:

- (a) enter upon and pass over the land of any person in order to gain access to the boundary or to survey the boundary;
- (b) erect and maintain boundary monuments upon the land of any person; and
- (c) clear from the land of any person such trees and underbrush as the Commission deems necessary to maintain a vista ten feet in width from the boundary.

Is authority given to you to settle the boundary line itself or should it be put in this bill?

Mr. LAMBERT: I don't think it is in the act, but it is in the treaty.

The LAW CLERK: It could not be done unilaterally.

Mr. CLEVELAND: No, it could not.

Senator REID: May I ask a question which applies to the part of the country from which I come, and this may be my best opportunity to do it?

I understand that first of all the United States have carried on by passing treaties that fit into the boundary position. I am wondering if they passed any law when we changed our position and called it the 49th parallel by Order in Council. Did they agree to it? It must be designated as the 49th parallel, but we by Order in Council say it is the 49th parallel when it in fact is not. Did the Americans agree to that? This seems to me a most interesting point.

Honourable senators may not see the significance of my question, but we have quite a few problems with the Americans in Boundary Bay. I have been doing my best to get them to release Boundary Bay, because it is part of Canada; Vancouver people have home sites there, and it is really a Canadian townsite. So, I would like to know if you have found out, since we have fixed the 49th parallel by Order in Council, how the Americans treat it.

Mr. CLEVELAND: Mr. Chairman, perhaps I might answer that as to the non-technical part of it. The boundary between the two countries is the actual staked-out boundary which the Commissioners have marked on the ground. By the treaty it is agreed that the Commission marks on the ground shall be the boundary.

The ACTING CHAIRMAN: Based on a survey, I suppose?

Mr. CLEVELAND: Based on a survey, and implementing the treaty. But once it is marked, it is the boundary until such time as it is challenged by one Government or the other. So, at the moment that would be the mark.

As to the action taken on the United States side at any time with respect to authorizing within their own country the demarcation of a particular line which might vary from the line which a surveyor might have run, I do not know what action has been taken. I doubt if they would have any need for specific action, because I think the treaty itself in the United States gives the administration all the power that is necessary to make such a decision, as an administrative decision.

Senator REID: My question is, there must have been some action taken, because we endeavoured to rectify the line by Order in Council.

The ACTING CHAIRMAN: On this point I wonder if Mr. Lambert knows of any experience since the commission came into existence where any problem has arisen over the location of the international boundary line, as to the marking of it?

Mr. LAMBERT: No, I do not think there have been any technical problems.

The ACTING CHAIRMAN: If there were then they would have to be referred to each government?

Mr. CLEVELAND: That is correct, Mr. Chairman.

The ACTING CHAIRMAN: After all there is not much difference between that problem and an ordinary line fence decision in most farming communities between here and Montreal. I have had some experience myself of that kind and there is no survey to decide it at all. These kind of problems descend from the seigniorial system.

Senator REID: Mr. Chairman, may we take the bill now clause by clause?

Senator FERGUSON: I would like some information with respect to the boundary line across New Brunswick. Has the whole vista been marked all by way along in that province where it is not bounded by the St. Croix River? Is not the St. John River the boundary on one part.

Mr. CLEVELAND: Yes, it is for a few hundred yards.

Senator FERGUSON: Just above Grand Falls?

Mr. CLEVELAND: Just above Grand Falls in the area that is slightly flooded.



Senator FERGUSON: I thought there were two miles of it along there.

Mr. LAMBERT: A good many more than that. The boundary goes from Grand Falls to Connors, on the St. John River, then up the St. Francis River. It also touches the southwest branch of the St. John River which is just east of the Quebec-Maine highlands boundary.

Senator FERGUSON: Is the boundary vista marked out along the rest of the boundary?

Mr. LAMBERT: One of our men re-opened one half of the length of this vista during three seasons in the mid 1950's and the United States re-opened their half at the same time.

There are 175 miles in the highlands.

Senator MACDONALD: Mr. Chairman, we have the customs officials here and I have a question I would like to ask.

The ACTING CHAIRMAN: I was going to suggest that possibly Mr. McIntyre of the Department of National Revenue might add something to what he has already said about these across the boundary incidents—how much traffic is permitted to go across there without being challenged at all.

Mr. MCINTYRE: In answer to Senator Macdonald, we have had a number of incidents with these boundary line buildings. We have certain provisions in the Customs Act that allow us to go in and if we suspect any smuggling of goods taking place in a line building we have the right to go before a Justice of the Peace and obtain a warrant to go in and search that building. If we find evidence that there is smuggling we have a right under the Customs Act to seize the goods and have them forfeited to the Crown and we also can take action under the Customs Act against the person suspected of smuggling the goods.

Senator MACDONALD: I think we are fairly familiar with the law, but have you had trouble in connection with people whose homes are right on the border-line?

Mr. MCINTYRE: Yes, we have.

Senator MACDONALD: Let me take a specific example: Supposing a home is on the border and the bedrooms are on the American side, the dining room on the Canadian side. Now, they want to buy a baby buggy and they buy the baby buggy on the American side. How do you follow them closely enough to charge duty on that baby buggy?

Mr. MCINTYRE: We are not too concerned about small matters like that, but if there is any evidence of suspected commercialization, then we become interested.

Senator MACDONALD: Let me take another case. Suppose that my home is on the border-line and I buy an automobile in the United States. Probably that is where my dining room is. My garage is on the Canadian side. Do I have to pay duty on that automobile, if I bought it in the United States and garage it in Canada?

Mr. MCINTYRE: If it was just garaged on the Canadian side we could not be concerned, but if there was any use made of it on the Canadian side we would want to collect the duty and tax.

Senator MACDONALD: Would I have to pay duty on that automobile if, let us say, one-quarter of my business was being done on the Canadian side and three-quarters of it in the United States?

Mr. MCINTYRE: Yes, we have had cases like that. We would collect duty and tax if the car is used to any extent for business purposes in Canada.

Senator REID: Would a man have to declare what his nationality is to avoid taxation?

Mr. McINTYRE: It is not a question of nationality, it is a question of, s that car being used for business purposes in Canada.

Senator MACDONALD: Even if three-quarters of his house is on the American side and one-quarter on the Canadian side, and three-quarters of his business is done in the town on the United States side of the border?

Mr. McINTYRE: Well, if the car is being used at all in Canada for commercial purposes we would require the duty to be paid.

Senator ASELTINE: On the full value?

Mr. McINTYRE: It would be on the duty paid value, that is the list price of the car. The duty is placed on that at 17.5 per cent and then 11 per cent sales tax. That would be added to the price of the car, plus the duty.

Senator REID: If he was not in business could he run the car in Canada without first having to pay duty? That is, if three-quarters of his home was in the United States and he bought the car there and left it in front of his house on the United States side, what law would you tax him under if he ran it in Canada? You could not take a sales tax from him?

Mr. McINTYRE: If he is not using the car for commercial purposes but just for his own personal purposes we could give him an E-50 permit, which would allow him to go to specific points, but he could not go around soliciting business for instance.

Senator REID: I didn't say anything about doing business. If he would just take trips in it, what law could you get him under for doing that?

Mr. McINTYRE: Just on a trip?

Senator REID: Yes. Could he come in as a visitor and go back and forth.

Mr. McINTYRE: He could have a visitor's permit. He would not be using the car for commercial purposes. That is the distinction I made.

Senator REID: But if a visitor's permit is issued to him it is good only for six months.

Mr. McINTYRE: Yes, but it can be renewed. We issue it anywhere for a month to six months and under unusual circumstances we would consider having it renewed.

Senator HUGESSEN: I suppose you do not worry about these people unless they are engaged in trade?

Mr. McINTYRE: That is right.

Senator MACDONALD: Do you require them to have a visitor's permit?

Mr. McINTYRE: Yes.

Senator MACDONALD: Even if not engaged in trade?

Mr. McINTYRE: Yes, we would issue a travelling vehicle permit. We want to have control over all these foreign automobiles coming into Canada; we want to know why they are in here and for what periods of time.

Senator MACDONALD: I do not suppose you would be prepared to give an opinion as to the nationality of a child if the home in which it is born is on the line, and three-quarters of it is in Canada, and the parents are Canadians, the bedroom being on the American side of the line.

Mr. McINTYRE: No, sir, I think I will leave that to Citizenship and Immigration.

The ACTING CHAIRMAN: May I ask the witness a question not based on these technical situations which my honourable friend has been raising? When I lived in western Canada one heard a good deal about cross-boundary traffic in relation to farmers in marketing their wheat. A Canadian farmer might have an elevator point more conveniently disposed to him across the border than he

has in his own country and would take his wheat across the line and market it there, and vice versa. Does that practice still maintain without any interference by the Customs Department?

Mr. McINTYRE: We have knowledge that that sort of thing is going on. They report to Customs when they go across the border.

The ACTING CHAIRMAN: They do not always report. I suppose there is a free trade area that you let go.

Mr. McINTYRE: We leave it a lot to the discretion and good sense of the local collectors. They know the men around there. Quite often the collector comes from that particular area in the first place, and he knows what is going on. As long as there is no evidence of smuggling on a commercial scale we are not too concerned. We know that all men have a little bit of a smuggler's nature and if they haven't their wives have. They bring the odd thing over but we are not too concerned.

The ACTING CHAIRMAN: You are wise.

Senator HIGGINS: The passage of this bill will not stop that sort of thing.

The ACTING CHAIRMAN: I understand that with respect to the instances which Senator Macdonlad has mentioned, there have been seventy-five cases where buildings straddled the line and created problems. But they have been reduced.

Senator REID: Can we proceed with the bill, now?

The ACTING CHAIRMAN: Does the committee agree with the title of the bill?

Hon. SENATORS: Agreed.

The ACTING CHAIRMAN: Shall we take the bill clause by clause?

Senator MACDONALD: I would move that the bill be reported.

Senator ASELTINE: Yes.

The ACTING CHAIRMAN: Is that unanimous?

Hon. SENATORS: Yes.

The ACTING CHAIRMAN: Then we will report the bill without amendment.

The committee thereupon adjourned.



REPORT OF COMMITTEE

THURSDAY, June 23rd, 1960.

The Standing Committee on External Relations to whom was referred the Bill (S-35), intituled: "An Act respecting the International Boundary Commission", have in obedience to the order of reference of June 21st, 1960, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

NORMAN P. LAMBERT,  
*Acting Chairman.*





Fourth Session—Twenty-fourth Parliament

1960-61

# THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

## EXTERNAL RELATIONS

on the Convention on the Organization for Economic Co-operation and  
Development and the Supplementary Instruments, signed in  
Paris on December 14th, 1960.

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WEDNESDAY, MARCH 8, 1961

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The Honourable G. S. THORVALDSON, *Chairman*

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WITNESS:

Mr. A. E. Ritchie, Assistant Under-Secretary of State for External Affairs.

### REPORT OF THE COMMITTEE.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1961



## THE STANDING COMMITTEE ON EXTERNAL RELATIONS

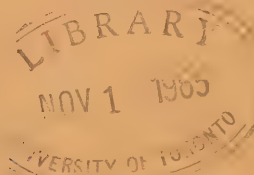
The Honourable Gunnar S. Thorvaldson, *Chairman*

### The Honourable Senators

*Aseltine	Hardy	Robertson
Beaubien ( <i>Provencher</i> )	Hayden	Savoie
Boucher	Horner	Taylor ( <i>Norfolk</i> )
Bradette	Howard	Thorvaldson
Bradley	Hugessen	Turgeon
Crerar	Inman	Vaillancourt
Croll	Jodoin	Veniot
Farquhar	Lambert	Vien
Farris	Lefrancois	Wall
Fergusson	MacDonald ( <i>Queens</i> )	White
Fournier	*Macdonald	Wilson (35).
Gouin	McLean	
Haig	Monette	

(Quorum 7)

\*Ex officio member



1018449

## ORDER OF REFERENCE

TUESDAY, March 7, 1961.

Extract from the Minutes of the Proceedings of the Senate.

"With leave of the Senate,

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Beaubien (*Bedford*):

That the Convention on the Organization for Economic Co-operation and Development and the Supplementary Instruments, signed in Paris on December 14, 1960, which were tabled in this House on December 19, 1960, and printed as an Appendix to the Debates of the Senate and to the Minutes of the Proceedings of the Senate for March 2, 1961, be referred to the Standing Committee on External Relations for consideration and report.

The question being put on the motion, it was—  
Resolved in the affirmative."

J. F. MacNEILL,  
*Clerk of the Senate.*

## REPORT OF THE COMMITTEE

WEDNESDAY, March 8, 1961.

The Standing Committee on External Relations have in obedience to the order of reference of March 7, 1961, considered the Convention on the Organization for Economic Co-operation and Development and the Supplementary Instruments, signed in Paris on December 14, 1960.

Your Committee recommends the said Convention to the favourable consideration of the Senate.

Your Committee further recommends that authority be given for the printing of 800 copies in English and 200 copies in French of the proceedings of the Committee with respect to the Convention.

All which is respectfully submitted.

G. S. THORVALDSON,  
*Chairman.*



## MINUTES OF PROCEEDINGS

WEDNESDAY, March 8, 1961.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 4.30 p.m.

*Present:* The Honourable Senators Thorvaldson, *Chairman*; Aseltine, Croll, Fergusson, Horner, Hugessen, Inman, Lambert, MacDonald (Queens), Macdonald, Robertson, Savoie, Turgeon and Wilson—(15).

*In attendance:* The official reporters of the Senate.

Pursuant to the Order of Reference of March 7, 1961, the Committee considered the Convention on the Organization for Economic Co-operation and Development and the Supplementary Instruments, signed in Paris on December 14, 1960.

Mr. A. E. Ritchie, Assistant Under-Secretary of State for External Affairs, appeared before the Committee and explained the terms of the said Convention.

It was Resolved to report recommending the said Convention to the favourable consideration of the Senate.

It was further Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of their proceedings on the said Convention.

At 6.00 P.M. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,  
*Clerk of the Committee.*



## THE SENATE

### STANDING COMMITTEE ON EXTERNAL RELATIONS

#### EVIDENCE

OTTAWA, WEDNESDAY, March 8, 1961.

The Standing Committee on External Relations, to which was referred the Convention on the Organization for Economic Co-operation and Development and the supplementary instruments, signed in Paris on December 14, 1960.

Senator Gunnar S. Thorvaldson in the Chair.

The CHAIRMAN: Honourable senators, we have with us today Mr. A. E. Ritchie, Assistant Under-Secretary of State for External Affairs. Is it the wish of the committee that Mr. Ritchie be asked to make a general statement on the subject of the Organization for Economic Co-operation and Development, and that we then have an opportunity to ask questions and discuss the subject?

Hon. SENATORS: Agreed.

Mr. A. E. Ritchie, Assistant Under-Secretary of State for External Affairs: Honourable senators, I hope it will not be considered a disrespect in any way that I have not come with a prepared statement. When I was invited this morning to appear here I welcomed the opportunity to meet with this committee and provide whatever information I could on points on which you might desire clarification or amplification regarding the Convention for the Organization for Economic Co-operation and Development.

At your suggestion, sir, perhaps I may say something general about the background of this development, and then to receive whatever questions you may care to put to me which I am in a position to answer. I am sure you are all well aware of the record of the Organization for European Economic Co-operation.

Senator MACDONALD (Brantford): We are not fully aware of it. We would like to hear something about it.

Mr. RITCHIE: The O.E.E.C. emerged from the initiation of the Marshall Plan for European recovery, which plan was based predominantly on aid supplied to Europe by the United States to facilitate recovery of that continent after the war. This organization, which began about 1948 and was aimed to accomplish certain things by 1952, was remarkably successful in accomplishing them, and went on after that to still further accomplishments which it seemed desirable to achieve in Europe.

Initially the O.E.E.C. was concerned mainly with the division of United States aid; that was the main function which it seemed desirable to have some organization carry out on a co-operative basis. Later on, and to some extent along with that function, but especially later on, the O.E.E.C. attempted to bring about co-operation among the European countries on many aspects of economic policies, going far beyond the mere distribution of aid.

Senator MACDONALD (*Brantford*): Would it be appropriate to give the names of the countries which were in O.E.E.C.

Mr. RITCHIE: The original countries?

Senator MACDONALD (*Brantford*): Yes.

Mr. RITCHIE: They are very much the same countries as are in the new organization. They are listed here, and perhaps I could read them off to you.

Senator MACDONALD (*Brantford*): For the record, please.

Mr. RITCHIE: The Organization for European Economic Co-operation included Austria, Belgium, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, and the United Kingdom; it included also Yugoslavia, as a rather special observer, and during the latter part of its life, it included the United States and Canada as associated countries. We were not members, but we were more than observers; we were associated countries.

Senator MACDONALD (*Brantford*): Which Ireland was included?

Mr. RITCHIE: The Republic of Ireland.

Senator MACDONALD (*Brantford*): Northern Ireland was not included?

Mr. RITCHIE: Only as a part of the United Kingdom.

As I say, this organization had a really impressive record in the practical problem of dividing aid, when it was needed and was supplied; and in the perhaps even more difficult field of bringing about co-operation of European countries in all kinds of economic activities. When I say "economic activities", I do not mean simply trade and finance. It went much beyond that, into transportation, science, tourism, fisheries, agriculture and a great range of fields. The O.E.E.C. brought about co-operation among European countries, with Canada present along with the United States as associated countries.

Senator CRERAR: Did the steel community grow out of that?

Mr. RITCHIE: Not organically, but one might suspect that the habit of co-operation which developed in the O.E.E.C. influenced some of these other developments—perhaps the coal and steel community, perhaps the European Economic Community, and perhaps the European Free Trade Association. One might wonder whether any of these would have come into being if there had not been this experience of co-operation in O.E.E.C., but they did not formally grow out of O.E.E.C.

Senator CRERAR: It perhaps might be said that as a result of trading more freely together they developed kindlier feelings towards each other and created an atmosphere in which they could go further.

Mr. RITCHIE: This may well be the case.

Senator CROLL: Mr. Chairman, in view of the fact that the witness has said he did not have a prepared statement, do you mind if we ask questions as he goes along?

The CHAIRMAN: I think that would be a good method of getting information.

Senator CROLL: In what respects is the O.E.C.D. a tighter organization than the O.E.E.C.?

Mr. RITCHIE: To describe them in terms of tighter or looser organizations is rather difficult. In many ways the O.E.E.C., with respect to member countries, was an extremely tight and closely-knit organization with some quite specific obligations which were accepted by the members of that organization. In some respects the O.E.C.D. formally and institutionally might be considered by some to be a less-tight organization. The emphasis is perhaps more on its consultative nature than in O.E.E.C. I think the very fact that the O.E.E.C.



started off with this concrete and precise job of dividing up aid, gave it a precision and a tightness, if you will, more so than in an organization created under different circumstances.

In short, I would not really want to attempt to say which is the tighter organization. Some European countries would argue that O.E.E.C. was a tighter organization; and other countries might argue that with the inclusion of the United States and Canada, while the obligations are perhaps not as specific and not as formal or as binding, nonetheless this organization, because of the larger area involved, has brought about closer co-operation and more tightly-knit arrangements among all of the countries than was the case in O.E.E.C.

Perhaps I have not made the distinction clear. What I am trying to say is that among the original members of O.E.E.C. the arrangements were quite tight, with a fairly loose arrangement with the United States and Canada.

Senator CROLL: Just on that point, what was the thinking behind our failure originally to join O.E.E.C.?

Mr. RITCHIE: This stems from the origin of O.E.E.C., which I say was related to the division of aid. We were not among those receiving aid.

Senator CROLL: All the other members received aid?

Mr. RITCHIE: Exactly.

Senator CROLL: The United Kingdom?

Mr. RITCHIE: Yes, very much so, under the Marshall Plan.

Senator CROLL: Did we not receive off-shore aid, as they called it?

Mr. RITCHIE: Not off-shore "aid", but procurement took place in Canada. This was not aid. We were providing aid ourselves under the United Kingdom loans and otherwise on a quite substantial scale.

Senator CROLL: So the reason we were not in is that we were not receiving aid, but giving aid?

Mr. RITCHIE: That is true. The second reason is that it was considered politically very desirable that the Europeans be encouraged to help themselves as far as possible, and be encouraged to look to their own devices.

Senator LAMBERT: That was one of the conditions under which the Marshall Plan was extended to Europe—that they would run it themselves.

Mr. RITCHIE: Yes, this was considered desirable, and the effect has been wholesome. They have co-operated among themselves, with a friendly attitude towards Canada and the United States, and they have managed to improve their own conditions. This was the object of the scheme, and this object might have been somewhat detracted from if the United States and Canada had been in the organization at the beginning with the European countries.

Senator CROLL: There is one thing that troubles me at the moment. How do we justify giving the Swiss aid. They did not suffer during the war. They profited during the war. How do they come under this?

Mr. RITCHIE: There had to be included all the countries in Europe which were part of the same sort of area and the same sort of payments system. Switzerland, which is an important trading country within that very area, could not be left out, even though it was not a belligerent. Switzerland did have post-war readjustment problems that made her position somewhat similar to that of the European countries which were the original members of the O.E.E.C. I think the similarity in the problems experienced by Switzerland—they were similar but not identical—with the problems of other European countries after the war was caused by the fact that Switzerland is in this same trading network as these other European countries which are members. This made it fairly natural that Switzerland should be a part of this organization.

Senator CRERAR: There are several other countries which were not beligerents.

Mr. RITCHIE: Yes, Turkey is in there.

Senator MACDONALD (*Brantford*): I take it, then, that the only countries which are now going to be in the new organization and which were not in the former organization are Canada, the United States and Spain?

Mr. RITCHIE: Spain was in the earlier organization.

Senator MACDONALD (*Brantford*): Spain was in the original organization?

Mr. RITCHIE: Yes.

Senator MACDONALD (*Brantford*): Then there are only two—Canada and the United States?

Mr. RITCHIE: Essentially that is right. Yugoslavia will maintain a special relationship, but she had a special relationship with the original O.E.E.C. as well. What you say is quite right. The additions are the United States and Canada.

Senator CROLL: What is this special relationship? Does the special relationship give you the opportunity of taking without giving?

Mr. RITCHIE: We are now beyond the period when aid is being either given or taken. Participation in the capacity such as is now being enjoyed by Yugoslavia does not really provide an opportunity for either taking or giving in a material sense.

Senator CROLL: What benefits does Yugoslavia get out of it as an associate as against becoming a member? Why does not Yugoslavia come in? She has been associated for some time with O.E.E.C., and now she is associated again. What is the reason for that?

Mr. RITCHIE: The reason I think, sir, is that the trading system of Yugoslavia, while changing considerably, is in some fairly important respects different from the trading systems of the European countries which are members of the O.E.E.C., and, of course, quite substantially different from the trading system of our two countries in North America. To attempt to bring Yugoslavia, with its different trading system, fully into an arrangement that is really based on our kinds of trading systems, which vary in themselves but which have a great deal in common being based on the principle of free enterprise, might present problems for both Yugoslavia and for the other member countries. The other countries are multi-lateral traders with fairly free domestic economies. The principles that are set out in the convention, and the sorts of policies that might be discussed in the consultations within the organization, might possibly not be fully applicable to an economy such as that of Yugoslavia, but this does not interfere, and did not in the O.E.E.C., with quite useful consultations and discussions between Yugoslavia and the other countries which are full members of O.E.E.C.

Senator MACDONALD (*Brantford*): I was quite interested to hear that Yugoslavia has an association with this organization. I think this is the first time it has been mentioned in Parliament since this convention was presented for consideration. I read all of the debates in the House of Commons, and I do not recall reading any reference to the interest of Yugoslavia in the convention. That is very interesting and very encouraging. Do you know when Yugoslavia did become indirectly associated with O.E.E.C.?

Mr. RITCHIE: I am very sorry, sir, I could not give you the exact date, but it has been two years, I would say.

Senator ROBERTSON: It was about two years ago that it expressed an interest.

Mr. RITCHIE: With respect to the lack of any reference to Yugoslavia in any previous discussions may I say that I myself may have been assuming

something which is not yet a fact. I have been assuming that Yugoslavia would be an observer under the new organization, as she was under the old organization, and as she was during the preparatory discussions which created this new organization. If I said, as I am sure I did, that Yugoslavia was an observer in the new organization then I must say I was anticipating a bit. There are rules of procedure and by-laws for the organization which obviously would have to be laborated to cover this point, but I have been assuming, perhaps too easily, that a country which had been an observer at the O.E.E.C. and which had been an observer with a voice at the preparatory committee, would certainly be at last an observer in the future organization.

Senator HUGESSEN: Are all of the countries which compose the Inner Six and the Outer Seven free trade areas in this group?

Mr. RITCHIE: Yes, sir, they are all in. Perhaps I might continue something I was saying earlier about the origins of the O.E.E.C. and the functions that it has performed. I started off by saying it was mainly concerned about the division of aid, and it got more and more into the field of promoting economic co-operation. All of those countries in O.E.E.C. were strictly European countries, with others of us just sort of involved as associates. That European basis for co-operation was reasonably satisfactory up until a year or so ago, but when the European currencies generally became convertible and when discriminatory restrictions tended to disappear and the basis for discrimination pretty well went out the window, at that point the old O.E.E.C. became, if I may say so, somewhat out of date. Its basic European complexion and concentration on regional trade problems were not too well suited to the situation that arose when, as I say, currencies became convertible generally and the basis for discrimination disappeared, and on top of this were underlying changes in the European economic position, changes in atmosphere within Europe with the coming into being of the Six, to which reference has been made, and subsequently the coming into being of the European free trade area. There was a change in atmosphere, and co-operation, even on a European basis, became difficult after 1957-58 when those rather arduous negotiations for a general European free trade area broke down.

So a year or so ago we were confronted with a change in the basic position in Europe which made general European co-operation insufficient, for Europe had opened itself up through the convertibility of currencies, and otherwise, to the rest of the world. At the same time European co-operation was interfered with by the division of Europe in a trading sense between the Six and the Seven. At that point it became a choice between a new arrangement in place of the O.E.E.C. or nothing at all. The O.E.E.C. had begun to sort of grind to a stop, but having nothing at all seemed to be a pretty unsatisfactory substitute for this old and perhaps out-of-date organization.

At that time the possibility arose of somebody devising a plan based on a new kind of discriminatory arrangement which would not have made sense from a European point of view and would have been uncomfortable, to say the least, from a North American point of view. It was in these circumstances that initiative was taken in which the United States and Canada played their parts to create a new organization suited to the different currency and trading situation that had developed, and one which would ensure that whatever happened between the Six and the Seven, or whatever happened between any members of the group, the interests of the larger group, which would include the United States and Canada, would be taken into account.

Senator HUGESSEN: That is why it was essential for Canada and the United States to become part of it?

Mr. RITCHIE: That was the judgment.

Senator LAMBERT: Before that they were observers.

Mr. RITCHIE: Associate countries, which meant they had a voice but were not full members.

Senator LAMBERT: I am thinking about the personnel of the new organization, the O.E.C.D., in relation to the old organization, the O.E.E.C. The projected Secretary General is, of course, Mr. Thorkil Kristensen.

Mr. RITCHIE: The last Secretary General of the O.E.E.C. was Mr. Rene Sergent, a member of the French Department of Finance. His immediate predecessor, I believe, was Mr. R. Marjolin; and Sir Oliver Franks was a very important figure in the earlier discussions.

Senator LAMBERT: He went to Washington later as an ambassador from Great Britain.

Mr. RITCHIE: I believe that is correct.

Senator LAMBERT: The O.E.E.C. came to its end with the completion of the objectives of the Marshall Aid Plan which was created to provide the necessary financial aid to enable war-stricken countries of Europe to recover and become self-sufficient. The moment that the dollar situation was created so that they had a supply of American dollars in which to satisfy their economy, the job of the O.E.E.C. was practically finished, as I understand it. What I am wondering is whether as a result of ten years of experience of this old organization, the personnel of the new organization, the O.E.C.D., will be pretty well the same. In other words, with the exception of Mr. Kristensen, who will be the Secretary General, will the personnel be similar to the personnel of the old organization?

Mr. RITCHIE: The new Secretary General will clearly have to have a good deal to do with the selection and organization of his staff. It would be reasonable to assume that many members of the old O.E.E.C. secretariat, who have proven their competence and ability, as so many of them have, will be part of the staff of the new organization. I have no doubt about that.

Senator LAMBERT: I notice that the second paragraph of article 11 of this convention makes reference to the international character of the organization, and provides that the Secretary General, the Deputy or the Assistant Secretaries General and the staff shall neither seek nor receive instructions from any of the members or from any Government or authority external to the organization. Would you mind enlightening this committee on just what that means?

Mr. RITCHIE: This principle that is set out in Article XI is similar to the principle that is intended to operate in the case of many international organizations, such as the United Nations, that personnel appointed to the organization shall not remain beholden to their own governments to the point where—

Senator LAMBERT: It is a principle of status of independence?

Mr. RITCHIE: That is right, to ensure the independence and international character of the staff. On the point of continuity, you will be aware that there is a protocol and memorandum of understanding which do not deal with the question of continuity of staff, but do deal with the question of continuation of some of the features, some of the conclusions, acts, recommendations, and so on, of the old organization.

Senator MACDONALD (Brantford): What happens to O.E.E.C. when the new organization is set up?

Mr. RITCHIE: In a supplementary protocol on page 19 of this blue edition of the convention, provision is made for the revision of the old O.E.E.C. convention in such a way that in effect merges it in with the O.E.C.D. convention—the convention of the O.E.E.C. is in essence taken over by O.E.C.D.



Senator MACDONALD (*Brantford*): That is what Senator Fergusson mentioned last evening in the Senate.

Senator CRERAR: The O.E.E.C. was a machinery set up for the fulfilment of the Marshall Plan, which really outlived its usefulness. Is it correct to say that the Inner Six and Outer Seven were developments which grew out of the O.E.E.C.? Now, what I am interested to know is, what is the genesis of the new organization O.E.C.D.? Who suggested it?

Mr. RITCHIE: These ideas are difficult to trace back to their origins, and I think it would be hard to say with certainty precisely who suggested that the O.E.E.C. should give birth to or be transformed into the O.E.C.D.; but one can say with certainty that the original formal proposal for a discussion among the members and associated countries of the O.E.C.D., as to what should be done about the O.E.E.C., what changes should be made in it, or what kind of an organization should take its place, was made by Mr. Douglas Dillon, who at that time was the United States' Under Secretary of State, and is now the United States' Secretary of the Treasury under the new administration. Mr. Dillon, I understand, was concerned about the situation that had developed in Europe. He was concerned at the possibility that if an initiative was not taken you might have arrangements made in Europe which discriminated against other countries, including other countries in the Atlantic area, and for these kinds of reasons, and because it was evident that the O.E.E.C. had become out of date, he did propose in Paris that there be a discussion on what should be done about the field covered by the O.E.E.C.; and that gave rise to the discussions that then led on to the creation of the O.E.C.D.

Senator CRERAR: Was there the possibility of political developments growing out of that; to put it quite frankly, that France wanted really to become the leader of the Inner Six, and develop an Inner Six European community that would ultimately lead on to probable co-operation of foreign policies, and things of that nature? I suspect, though, although I have no proof of it, that the suggestion by the O.E.C.D. was in the nature of a counter to that tendency on the part of France, and that by getting the O.E.C.D. countries together and having the United States and Canada associated with them, we may develop out of that this wider trading community that would give cohesion not only to an Inner Six in Europe but in a much wider field.

Mr. RITCHIE: This is a possibility, sir, but I could not really speculate on it with much confidence.

Senator CROLL: I notice the financial regulations provided that we should pay whatever the council decides. What did we pay under O.E.E.C.; what was our contribution roughly in dollars?

Mr. RITCHIE: Frankly, I cannot suggest a precise figure for the O.E.C.D.; we paid nothing under O.E.E.C.

Senator CROLL: Because we were an associate?

Mr. RITCHIE: Yes. May I correct that to say that we did contribute a small amount of money to one of the agencies of O.E.E.C., the productivity agency.

Senator CROLL: Can you give us a rough figure?

Mr. RITCHIE: No, I could not give a figure that would really stand up. If the committee so desires I will get the last budget.

Senator CROLL: No. Tell us if it is high or low, or if it is likely to involve a great deal.

Mr. RITCHIE: Well, these are all relative terms, and I would not want, without getting the precise figures for the last O.E.E.C. budget, which may or may not be a good indication of what the first O.E.C.D. budget would be, and working out a proportionate Canadian figure.

Senator CROLL: Let me try some other way. How large was the staff of O.E.E.C. approximately?

Mr. RITCHIE: I would say approximately in the order of 500 people.

Senator CROLL: How big a staff will these people have approximately?

Mr. RITCHIE: This is very difficult to say. Some of the functions of the old O.E.E.C. may tend to wither away, but other functions which were not given as much emphasis by O.E.E.C. may tend in the new situation to receive a good deal more attention and require more staff in order that the discussion of those particular subjects should be well prepared.

Senator CROLL: Could you remember what Belgium paid under the O.E.E.C.?

Mr. RITCHIE: I would not, sir.

Senator CROLL: You haven't the figures?

Mr. RITCHIE: I have not. That does not mean we have imprudently gone ahead—

Senator CROLL: Oh, no. I know how you watch the dollar; don't worry about that.

Mr. RITCHIE: I would say it is one of the more economical organizations. Among the financial and budgetary experts it has an extremely good reputation, and I think that generally you would find it is thought to be an economical organization.

Senator CROLL: Were there many Canadians in the O.E.E.C.?

Mr. RITCHIE: Not on the staff of the O.E.E.C., no, sir. There was one distinguished Canadian national, who in addition to his earlier work in Canada had been working in the United Kingdom. He became deputy secretary general of the O.E.E.C. Unfortunately, he was killed in an automobile accident only a short while ago. I refer to Mr. Cahan.

Mr. Cahan was the senior Canadian national in the O.E.E.C. organization. There were one or two Canadians employed in other parts of the organization from time to time but we did not have, partly because we were not full members of the organization, any significant numbers of Canadians attached to the organization.

Senator CROLL: Who is our representative on it now?

Mr. RITCHIE: Do you mean on the council?

Senator CROLL: Yes.

Mr. RITCHIE: Mr. Leger is Canadian permanent representative.

Senator CROLL: Are we doing something about making arrangements to see that we are more representative in a personnel sort of way in the new organization.

Mr. RITCHIE: Well, Senator Croll, that goes back to Article 11, which as you know is intended to make persons who go into this organization independent of their nationality and Government.

Senator CROLL: But they can be Canadians before they become independent.

Mr. RITCHIE: Yes.

Senator CROLL: That is the point I am getting at. We should have some significant representation on it.

Mr. RITCHIE: Certainly, Senator Croll, it would be our hope that there would be competent Canadians whose qualifications would commend themselves to the Secretary-General and enable them to find a place in the organization.

Senator ASELTIME: I think we should press that.

Senator CROLL: I was hoping it would get across to somebody. I thought that would be the general view of the committee that we would want Canadians

in all these organizations, and there are competent Canadians. We do not expect them to be tattling to us the morning after they get the job, any more than they do when they become members of the United Nations organization, because as we are significant members we want some representation.

Senator MACDONALD (Brantford): I think if we were to start discussing that, every country in this organization will start pressing for representatives on it.

Senator LAMBERT: We had that experience in connection with the old set-up.

Mr. Chairman, may I ask Dr. Ritchie if there are any financial resources available to the commission in its present state of suspended animation. Between the submission of this ratification and the completion of it, what arrangements are there for financing it in the meantime?

Mr. RITCHIE: At the moment this is being handled through the O.E.E.C. budget. The O.E.E.C. is still in existence and remains in existence until the protocol becomes effective. Up to that point the expectation is that the preparatory work, and the continuation of certain of the functions of O.E.E.C. would be financed by the O.E.E.C. membership in the ordinary way. Now whether there would be any adjustment after the new organization comes into being I am not really able to say.

Senator LAMBERT: Can you say whether or not the O.E.E.C., which was really the administrative machinery for the Marshall plan received financial aid at the expense of organizations as part of the Marshall plan aid or was it financed independently by the different countries in it?

Mr. RITCHIE: It was independently financed by the member Governments. There are big operations under the O.E.E.C. to which the United States has contributed large sums of money—the European Monetary Agreement, the European Payments Union. These were bolstered financially with United States funds, but the administrative expenses of the O.E.E.C. have been financed by the member Governments.

Senator LAMBERT: If this ratification is completed what are your views, if you are free to tell them, as to what is the outlook for complete ratification by the possibly 20 member countries? Do you expect ratification to materialize within the next two years? I think 1962 is the deadline for ratification.

Mr. RITCHIE: I would not be diffident at all at making a forecast on that. I would have thought the prospects are extremely good for early ratification by the necessary number of members. The United States Senate Committee on Foreign Relations yesterday reported the convention out unanimously with one abstention, and if I may say so this represents quite a considerable step in the whole process of ratification by the various member countries.

Senator CROLL: Who was the abstention?

Mr. RITCHIE: Senator Capehart is what I have here in my note.

Senator MACDONALD (Brantford): Mr. Chairman, may I get back to the organization proper. I am wondering whether the benefits of this organization are going to accrue to the 20 members or is the idea to work together for the benefit of all mankind? I think that would be a very fine aim. But I would just like to know what the aim behind the organization is. May I refer the committee to Article 1 of the Convention. It reads:

#### *Article 1*

The aims of the Organization for Economic Co-operation and Development (hereinafter called the "Organization") shall be to promote policies designed:

- (a) to achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries, while

maintaining financial stability, and thus to contribute to the development of the world economy;

- (b) to contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and
- (c) to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

So it seems to me the aims of the organization go far beyond the advantages which will be obtained by the 20 member countries.

Mr. RITCHIE: I think this is quite true. If in fact the aims had been stated solely in terms of the welfare and progress of the member countries I think there would have been great concern on the part of many friendly countries outside this group about just what we were up to. We were somewhat concerned in the past when one or another European group had started off to do something very good for themselves and we have been concerned, not because they were aiming to injure us, but in the process of doing the things for themselves we might thereby suffer. Therefore I think to have gone less far than this would have been taken by outside countries as meaning that we really were assuming a disinterested attitude towards their similar problems, and perhaps even an adverse attitude.

Senator MACDONALD (*Brantford*): The commonwealth would be an instant case. There are only two commonwealth countries in this, Great Britain and Northern Ireland.

Mr. RITCHIE: Yes, indeed.

Senator MACDONALD (*Brantford*): Britain and Northern Ireland?

The CHAIRMAN: Southern Ireland.

Senator MACDONALD (*Brantford*): The Commonwealth countries would be the United Kingdom, Northern Ireland and Canada.

Mr. RITCHIE: Taking Northern Ireland as part of the United Kingdom and not as a separate entity.

Senator MACDONALD (*Brantford*): Northern Ireland is mentioned in the new organization.

Mr. RITCHIE: Yes, the United Kingdom of Great Britain and Northern Ireland.

Senator MACDONALD (*Brantford*): May I ask this: I read in Article V:

"In order to achieve its aims, the organization may:

- (a) Take decisions which, except as otherwise provided, shall be binding on all members;"—

Would that enable these 20 countries to agree to enter into trade agreements affecting the 20 countries only?

Mr. RITCHIE: This is part of the reason why Article I is expressed in the rather open terms in which it is expressed. Nearly all the O.E.C.D. prospective members are also participants in the general agreement on tariffs and trade. They do have obligations with respect not only to fellow members of O.E.C.D. but other countries in the world. They cannot look only to their own economic growth but must consider these other countries as well. Equally, with the binding obligations they have towards other countries they could not enter into trading arrangements amongst themselves which did not conform to the multilateral agreements to which they are parties.

Senator MACDONALD (*Brantford*): Having regard for the wider agreements, is it anticipated that trade agreements might be brought into being as a result of the setting up of this organization?



Mr. RITCHIE: It is very difficult to say what may be anticipated by one or another member of this new organization. I would not have thought that it was generally anticipated that this organization would be largely concerned with the working out of formal trade agreements; I would not have thought that was the general anticipation. One cannot, however, say with certainty what one or another member of the organization may be anticipating. This whole arrangement and what it amounts to depends very much, obviously, on what member governments decide to make of it. There are certain safeguards to lessen the likelihood of the wrong thing being made out of it, either from the point of view of member countries or countries which are outside the agreement. There are certain safeguards to ensure the interests of one or another member will not be sacrificed, and to ensure, so far as possible, that the interests of outside countries will not be overlooked. Subject to those safeguards and limitations in Article VI, on the nature of the actions which can be taken by the organization, the future of that organization, and what it will in fact become depend very much on what the member governments wish to have it become.

Senator MACDONALD (*Brantford*): O.E.E.C. did result in two trading groups, did it not?

Mr. RITCHIE: It did not produce them directly. They did occur among countries which had been co-operating in the O.E.E.C.

Senator MACDONALD (*Brantford*): I am wondering if it is likely that one great trading group may come about as a result of this association?

Mr. RITCHIE: I would not be able to speculate on that possibility, sir.

Senator HUGESSEN: If it ever comes about at all, it is much more likely to come about through this organization having been set up than if there was no such organization at all.

Senator MACDONALD (*Brantford*): I do not know if Mr. Ritchie will go that far.

Mr. RITCHIE: This convention will encourage constructive co-operation among the member countries, with due regard to the outside countries. What that might lead to I quite frankly could not forecast.

Senator LAMBERT: To what extent has the bloc of six countries, the European common market, bound itself together by agreement?

Mr. RITCHIE: The common market countries have become very closely bound together by agreement.

Senator LAMBERT: In connection with that, common tariff has been established amongst themselves. That is 10 per cent I understand; although I think it was to be lower than 10.

Mr. RITCHIE: I think you are speaking of the reductions in the tariff levels they are to make in the process of getting rid of tariffs among themselves.

Senator LAMBERT: One of the conditions of the association will be to reduce their common tariff to 10 per cent, at least, with the ultimate objective of being a free trade area?

Mr. RITCHIE: That is true among themselves, but they will still keep the common tariff to the outside world.

Senator LAMBERT: The area that is embraced by this bloc of six nations will eventually be a free trade among themselves?

Mr. RITCHIE: A customs union arrangement amongst themselves, with no barriers to trade among themselves, but with a common external tariff towards the rest of the world.

Senator LAMBERT: I suppose one of the propositions that will be considered by the O.E.C.D., when it comes into existence, will be to expand that area, if  
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possible, by negotiation to include the Atlantic community as a whole? That is one of the objectives, surely, of this whole convention?

Mr. RITCHIE: If you were asking whether one of the stated objectives of O.E.C.D. was to create a customs union on the model of the common market of six for the whole of the Atlantic area—if that is thought to be one of the stated objectives of this organization, I do not think that is the case. This convention does not attempt to foresee or prejudge exactly what kind of trade arrangement there may be among the member countries. It does ensure there will be close consultation on whatever kind of trading arrangements the member countries may be inclined to work out.

Senator MACDONALD (*Brantford*): Among themselves or for other countries not in the 20?

Mr. RITCHIE: All these things are possible.

Senator LAMBERT: Is not its promotional objective to create a bigger area of trading in the so-called Atlantic community, including the committee of twenty that brought this thing into existence, embracing the group of six, or at least the common market countries, as well as the seven? Realizing this is nothing more than just a promotional organization, and that it has no authority to create trade of any kind, but their aim and objectives are going to work out—just the same as the United Nations had objectives; and the charter, if it is going to meet with the approval of those ratifying it now, must see, some way, some chance at least of avoiding widening these barriers of trade between Europe and America?

Mr. RITCHIE: I am sure it will be the hope of all member countries that this organization will lessen the friction between countries in one trade group and another and countries outside.

Senator LAMBERT: It will be more than "friction"; it will be "conflict" they will have to lessen.

Mr. RITCHIE: Well, sir, I know the Europeans take very seriously among themselves this so-called economic division of Europe. One would expect that this organization would provide one place where problems of this kind could be effectively discussed. Of course, there is still the General Agreement on Tariffs and Trade where, obviously, similar problems can be discussed on an even wider basis.

Senator LAMBERT: The bloc of Six would include Great Britain, I suppose, at any time she wants to come in, or is the corporation closed to the extent of not admitting any other countries?

Mr. RITCHIE: The bloc of Six, as you call it, or the Common Market, is based on a treaty, the Treaty of Rome. That does not mean that there cannot be other signatories to the treaty, or that other countries might not adhere in some degree to the arrangements established by the treaty. How likely that is to happen, is very difficult to say. One hears a great deal of speculation on what the United Kingdom is thought by some to be contemplating, or what some other countries might be contemplating with respect to the United Kingdom. But so far as I am aware there can be no basis for any statement on what is likely to happen, except by way of speculation.

Senator LAMBERT: Are we likely to wake up some morning and learn that Great Britain has completed arrangements to become a part of that bloc? Mr. Heath in his statement quoted in the other house indicated a trend in that direction, and other statements have come out of Paris and London to the same effect.

Mr. RITCHIE: All one can say is that it is most unlikely that we would wake up one morning and find that has happened. The United Kingdom

government has, as indicated by statements made by Mr. Fleming in the other house, that the U.K. government has made clear that before any action was taken—not that any action would necessarily be taken—there would be close consultation. Therefore, I do not see any possibility of our waking up some morning to learn that such a thing has happened.

Senator LAMBERT: I agree, I put it rather bluntly when I suggested that we might wake up some morning to learn that it had happened, but from what we hear the course of events seems to be following that trend.

Senator MACDONALD (*Brantford*): As provided by article 3, it has occurred to me that a country would have to consult with other countries before entering into a trading organization.

Senator LAMBERT: That is true. I am thinking now about the European Common Market group itself. This convention is not going to change that group.

Mr. RITCHIE: No, but the existence of this organization would, I think, make it much more likely that there would be close consultation on any plan of this nature that one country or another might have in mind. There is an obligation in article 3, and one would hope and expect that there would be a habit of co-operation and consultation developed in this new organization, which would make it likely, or even certain, that there would be close co-operation on any matter of importance to member countries or to other countries outside the group.

Senator LAMBERT: Would you care to venture an opinion, either off or on the record, as to the influence the United States may have in this situation?

Senator MACDONALD (*Brantford*): Perhaps you would prefer to speak off the record.

(Discussion off the record).

Senator MACDONALD (*Brantford*): We have had a very good explanation of the convention.

The CHAIRMAN: Are there any further questions, honourable senators? If not, I want to say to Mr. Ritchie on behalf of all of us that we are very pleased he came here. We thank you very much, Mr. Ritchie, for your very competent review of the subject matter.

Senator ASELTINE: Are there any other witnesses?

The CHAIRMAN: No, not unless the committee wishes to hear more witnesses.

Is it the wish of the committee to recommend this Convention to the favourable consideration of the Senate?

Some HON. SENATORS: Agreed.

The committee adjourned.







Fifth Session—Twenty-fourth Parliament

1962

**THE SENATE OF CANADA**  
**PROCEEDINGS**  
**OF THE**  
**STANDING COMMITTEE ON**  
**EXTERNAL RELATIONS**

To whom was referred

The Universal Copyright Convention signed by Canada  
in Geneva in 1952 and Protocol 3 thereto.

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The Honourable G. S. THORVALDSON, *Chairman*

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THURSDAY, MARCH 1st, 1962

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**WITNESSES:**

Mr. A. Alex Cattanach, Q.C., Assistant under Secretary of State and  
Advisory Counsel; Mr. Harris Arbique, General Executive Assistant,  
Department of the Secretary of State; Mr. J. W. Michel, Commissioner  
of Patents, Department of the Secretary of State.

**APPENDIX "A"**

**REPORTS OF THE COMMITTEE**

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

# THE STANDING COMMITTEE ON EXTERNAL RELATIONS

The Honourable GUNNAR S. THORVALDSON, *Chairman*

## The Honourable Senators

*Aseltine	Hardy	Robertson
Beaubien ( <i>Provencher</i> )	Hayden	Savoie
Blois	Hnatyshyn	Taylor ( <i>Norfolk</i> )
Boucher	Howard	Thorvaldson
Bradley	Hugessen	Turgeon
Brooks	Inman	Vaillancourt
Crerar	Jodoin	Veniot
Croll	Lambert	Vien
Farquhar	MacDonald	Wall
Farris	*Macdonald ( <i>Brantford</i> )	White
Fergusson	McLean	Wilson—35.
Fournier	Monette	
Gouin	Pouliot	

(Quorum 7)

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\*Ex officio member

1018450

## ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 21st, 1962.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Thorvaldson, seconded by the Honourable Senator Beaubien (*Bedford*):

That it is expedient that the Houses of Parliament do approve the Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto, and that this House do approve the same.

After debate,

With leave of the Senate,

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Beaubien (*Bedford*), that the proposed Resolution be referred to the Standing Committee on External Relations for consideration and report.

The question being put on the motion, it was—  
Resolved in the affirmative."

J. F. MacNeill,  
*Clerk of the Senate.*





## MINUTES OF PROCEEDINGS

THURSDAY, March 1, 1962.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 11.30 A.M.

*Present:* The Honourable Senators Thorvaldson, *Chairman*; Blois, Bradley, Croll, Fergusson, Hnatyshyn, Hugessen, Inman, Jodoin, MacDonald, Macdonald (*Brantford*), Pouliot, Taylor (*Norfolk*), Turgeon, Wall and White. 16.

*In attendance:* Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel and the Official Reporters of the Senate.

The Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto, was read and considered.

On motion of the Honourable Senator Blois, seconded by the Honourable Senator Croll, it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Convention.

Heard in explanation of the said Convention were: Mr. A. Alex Cattanach, Q.C., Assistant under Secretary of State and Advisory Counsel; Mr. Harris Arbique, General Executive Assistant, Department of the Secretary of State and Mr. J. W. T. Michel, Commissioner of Patents, Department of the Secretary of State.

After discussion, it was Resolved to print as Appendix "A" to these proceedings, the list of countries belonging to the said Convention.

On Motion of the Honourable Senator Croll, seconded by the Honourable Senator Wall, it was Resolved to report recommending that the said Convention be approved by the Senate.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,  
*Clerk of the Committee.*

## REPORT OF THE COMMITTEE

THURSDAY, March 1, 1962.

The Standing Committee on External Relations have in obedience to the order of reference of February 21st, 1962, considered the "Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto".

Your Committee recommends that the said Convention be approved by the Senate.

All which is respectfully submitted.

G. S. THORVALDSON,  
*Chairman.*

THURSDAY, March 1, 1962.

The Standing Committee on External Relations to whom was referred the "Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto", report as follows:

Your Committee recommends that the said Convention be approved by 800 copies in English and 200 copies in French of their proceedings on the said Convention.

All which is respectfully submitted.

G. S. THORVALDSON,  
*Chairman.*

**THE SENATE**  
**STANDING COMMITTEE ON EXTERNAL RELATIONS**  
**EVIDENCE**

OTTAWA, Thursday, March 1, 1962.

The Standing Committee on External Relations, to which was referred the Universal Copyright Convention, met this day at 11.30 a.m.

Senator G. S. THORVALDSON (*Chairman*), in the Chair.

On a motion duly moved and seconded, it was agreed that a verbatim report be made of the committee's proceedings on the convention.

On a motion duly moved and seconded, it was agreed that 800 copies in English and 200 copies in French of the committee's proceedings on the convention be printed.

The CHAIRMAN: Honourable senators, we have with us today Mr. A. Alex Cattanach, Q.C., Assistant Under-Secretary of State and Advisory Counsel. Is it the wish of the committee that Mr. Cattanach be asked to make a general statement on the subject of the Universal Copyright Convention, and that we then have an opportunity to ask questions and discuss the subject?

Hon. SENATORS: Agreed.

Mr. A. Alex CATTANACH, Q.C., Assistant Under-Secretary of State and Advisory Counsel: Honourable senators, the Universal Copyright Convention and the Copyright Act have been under study by a departmental committee composed of the former Under-Secretary of State, Mr. Charles Stein; Mr. Harris Arbique, General Executive Assistant, Department of the Secretary of State; and Mr. J. W. T. Michel, Commissioner of Patents, Department of the Secretary of State. Both Mr. Arbique and Mr. Michel have been on the committee for a protracted period of time. I came into the committee at the later stages. I believe Mr. Arbique has had his nose to the grindstone on this for some time and is much more qualified to answer questions as to detail and possibly has all the information at his finger tips. The purpose, of course, is the implementation of the Universal Copyright Convention. The Royal Commission on Patents—

Senator MACDONALD (*Brantford*): May I interrupt for a minute? I wonder if it would be helpful, in view of the Berne Convention, if one of the witnesses could tell us just what the position is today in Canada with respect to copyright, and what the position is outside of Canada with respect to copyrights obtained in Canada. It occurred to me that it might be helpful if we knew what the position is at the present time, and then have explained to us what is proposed to be done.

The CHAIRMAN: Yes, Senator Macdonald. I thought that Mr. Cattanach would just make a general statement and then, subject to the concurrence of the committee, we might ask Mr. Arbique, whom I am told has a more intimate knowledge of the subject matter than anybody else, to do the very thing you have mentioned. He will be able to speak about our present position under the Berne Convention, and then proceed to what is being done by this convention.

Will you proceed, Mr. Cattanach?

Mr. CATTANACH: I was saying, sir, that the Royal Commission on Patents, Copyrights, Trademarks and Industrial Designs, known as the Ilsley Commission, and the Royal Commission on Publications, known as the O'Leary Commission, both recommended ratification of the Universal Copyright Convention, the Ilsley Commission recommending the carrying out of certain recommendations contained in its report first, and the O'Leary Commission recommending immediate ratification.

I think the paramount reason for the ratification of the convention is that it would be in the interests of the Canadian printing and publishing trade, and would avoid the deleterious effect of the manufacturing clause in the copyright act of the United States. This law requires that printing in the United States shall enjoy full copyright protection in that country, and copies printed outside the United States only enjoy an interim protection for five years from the date of the first publication of the work, and this only on the condition that not more than 1,500 copies are imported into the United States. Therefore, Canadian owners of copyright have to go to the United States to obtain full copyright protection in that country, and that is to the detriment of the Canadian publishing industry.

If Canada were to ratify the convention then since the United States is a member of the International Copyright Convention Canadian authors would be freed from the requirement of printing in the United States, and from other requirements as to registration and notice in the United States.

Senator POULIOT: Mr. Cattanach, will you tell me what will be the change made by this? Will you give us a general outline of the changes made by this convention?

Mr. CATTANACH: The effective change, sir, would be that a Canadian author would enjoy full copyright protection in the United States.

Senator POULIOT: It is just to have protection in the United States?

Mr. CATTANACH: Yes, and in other member countries of the Universal Copyright Convention.

Senator POULIOT: Throughout the world?

Mr. CATTANACH: Not throughout the world; just in those countries who are members of the Universal Copyright Convention and in those countries who are members of the Berne Convention.

Senator POULIOT: How many countries have signed this?

Mr. CATTANACH: About 15—there might be—

The CHAIRMAN: As I said a moment ago, I thought that Mr. Cattanach would make a very general statement in regard to the subject matter, and then Mr. Arbique, who has more intelligence on the subject than anybody else, would be, probably, more competent to answer questions such as the one you have asked.

Senator POULIOT: Mr. Cattanach is all right, but why do we not take Mr. Arbique first if he knows more. I am sure Mr. Cattanach will not be offended by that.

Mr. CATTANACH: Forty countries have ratified the Universal Copyright Convention.

The CHAIRMAN: Thank you, Mr. Cattanach. I will ask Mr. Harris Arbique, the General Executive Assistant of the Secretary of State, to speak now.

Senator MACDONALD (Brantford): I wonder if Mr. Arbique could just give us the position today of publishers and authors so far as copyright, generally, is concerned. If I am a publisher of a novel where do I stand so far as copyright is concerned, both in Canada and outside of Canada, before this convention is ratified?



**Mr. Harris ARBIQUE, General Executive Assistant, Department of the Secretary of State:** A Canadian author, if he holds the copyright, or a Canadian publisher if he holds the copyright, publishing in Canada has copyright, of course, in Canada. He has copyright by virtue of the convention to which Canada already belongs, namely, the Berne Union, in the countries of the Berne Union. He has a form of copyright protection in the United States because of a bilateral agreement which already exists with the United States. He has also copyright protection in a couple of other countries with which we have copyright agreements, but they are not relevant. These countries are North Borneo and Sarawak.

**Senator MACDONALD (Brantford):** What would my rights be under the Berne Agreement?

**Mr. ARBIQUE:** Under the Berne Agreement, and the other one, Canadian works are given protection in other countries according to the domestic laws of those other countries who are members of that convention, and in reciprocity Canada must grant protection under its domestic law. The Canadian copyright law gives protection to the authors of those other signatory countries.

**Senator MACDONALD (Brantford):** Have you a list of the signatory countries?

**Mr. ARBIQUE:** Yes, sir. The Berne Union is a fairly ancient one, dating back to 1886, and there have been several revisions of the Berne Convention. In general, the Berne Union was a European organization to begin with and consequently most of the countries in it are European. Russia and China are not members of any international convention and, together with the United States, they are the only major countries who are not members of the Berne Union. There are 46 countries in the Berne Union.

**Senator POULIOT:** Who are they? Would you table a list of them for the purposes of our record?

**Mr. ARBIQUE:** Yes. I will place on record a list showing the member countries of the Berne Union, the Universal Copyright Convention, and those who are dual members.

*For list of membership countries see appendix "A", p. 20*

There are 39 countries who are members of the Universal Copyright Convention, the other agreement we are discussing today, and of course a number of them, some 24 or 25, are dual members, that is, members of both the Berne Union and the U.C.C. For instance, the United Kingdom, France, and the Federal Republic of Germany are members of both.

**Senator MACDONALD (Brantford):** You did not answer the question with respect to the position of a person holding a copyright in Canada today.

**Mr. ARBIQUE:** A Canadian author or publisher today has copyright in Canada as defined by the Canadian Copyright Act.

**Senator MACDONALD (Brantford):** Do you recall offhand what that is?

**Mr. ARBIQUE:** Sir, the rights are very considerable and are spelled out in the act. Do you mean the length of time?

**Senator MACDONALD (Brantford):** Yes.

**Mr. ARBIQUE:** I am sorry, sir. Generally speaking, it is the life of the author plus 50 years.

**Senator HUGESSEN:** The life of the author plus what?

**Mr. ARBIQUE:** Generally speaking it is the life of the author and 50 years after his death. This period varies according to the class of works. There are classes of work which have slightly lower periods of copyrights.

**Senator CROLL:** In what respect will this convention improve the position of the copyright author today over his position of yesterday?

Mr. ARBIQUE: In several ways. One is that it gives him a wider affiliation, a wider scope, because of the fact that the U.C.C. is a United Nations sponsored agreement whereas the Berne Union is a European organization. The U.C.C. was pressed by the United States because of the fact that there has always been some disappointment in copyright circles that the United States did not belong to some international copyright organization. The United States had instead upwards of 40 bilateral agreements with other countries and this situation has been felt both in the United States and international copyright circles. In any case, what I was going to say was that a number of these countries are members of both conventions but there are also a number of other countries, primarily South American and Central American countries, which are also members of the Universal Copyright Convention. In other words, should we become parties to the Universal Copyright Convention we would then have international copyright relationships with a number of South and Central American countries and, most important, with the United States.

We have a bilateral arrangement with the United States now but this agreement is one whereby we are subject to the copyright law of that country.

Senator MACDONALD (*Brantford*): Which agreement?

Mr. ARBIQUE: The bilateral agreement we have with the United States, which was signed in 1923 or 1924. By this agreement our works are given protection in the United States and we protect the works of American authors in Canada. We give them protection under our act and we are given protection under their act, but their act is very restrictive in connection with certain provisions. The main one, which is the one considered in publishing circles in Canada as an infamous clause, the manufacturing clause, requires that any work in the English language must be printed and published in the United States in order to gain full protection in that country.

Senator CROLL: We agreed to that in 1923?

Mr. ARBIQUE: That is right, sir.

Senator CROLL: And it has never been varied up to this point?

Mr. ARBIQUE: No, sir. We have always been subject to that manufacturing clause in the United States copyright law. There are those who feel that agreement was a pretty poor one to have signed but, in any event, sign it we did. At that time we also attempted to inject certain printing clauses into our own legislation, but because we were members of the Berne Union we were limited in the actual restriction which we could impose against foreign authors. In other words, our printing clauses are not anything as effective as the American clauses. They are not really printing clauses but compulsory licensing clauses.

Senator MACDONALD (*Brantford*): Should we enter the Universal Copyright Convention I understand that under Article XVII of this convention the provisions of the Berne Union will not in any way be affected?

Mr. ARBIQUE: That is right, sir.

Senator MACDONALD (*Brantford*): So that the Berne Union will remain in force along with the U.C.C.?

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Do I understand that the Universal Copyright Convention would only affect our copyright dealings with the United States and that in so far as copyright matters are concerned we would come under the Berne Union?

Mr. ARBIQUE: We come under the Berne Union with respect to all countries which are members of the Berne Union. Our membership in that agreement requires that. I don't know what the legal phraseology would be but the Berne Union would take precedence over the other agreement were a conflict to arise.

Senator MACDONALD (*Brantford*): Let us say that countries "A", "B" and "C" have entered into the Universal Copyright Convention and countries "A" and "B" are still under the Berne agreement. Would our relationship with countries "A" and "B" come under the Berne Union or under the U.C.C.?

Mr. ARBIQUE: I think, Senator, you would find it does not really matter a great deal because the conventions do not differ that much. I think the U.C.C. can be pretty well accommodated within the Berne Union. The real significance is that different countries are involved in it. There is no getting away from the fact that the main purpose of becoming partners in this convention is with respect to our relations with the United States. That country is not a member of the Berne Union but prior to World War II considerable effort was made to bring the United States into the Berne Union. This effort was made both by the United States itself, which felt left out of international copyright arrangements, and by the other members of the Berne Union.

Senator MACDONALD (*Brantford*): Let us say that countries "A" and "B" belong to both the Berne Union and the Universal Copyright Convention and I have a publication and I say, "I want to come under the provisions of the U.C.C." and country "A" will say, "Oh, no, you come under the Berne Union and you will have to abide by its provisions."

Mr. ARBIQUE: I think, sir, there may be some confusion arising from the impression that these provisions have a certain legal effect on the countries concerned. The domestic legislation is the governing order. In other words, in Canadian copyright matters our Copyright Act is the thing that governs. All we have to be sure of is that the Canadian Copyright Act is so framed that it does not violate the rather open, unrestrictive provisions of the convention itself.

I have said that we are already bound in the United States by the United States law, but the United States by accession to the Universal Copyright Convention is required to leave inoperative in so far as Universal Copyright Convention member states are concerned certain of its provisions, among them the manufacturing clause. In other words, Article III of the convention requires that any country which has certain formalities which are a condition of copyright must consider these formalities as satisfied by compliance with certain other simple formalities, their formalities being the imposition of the insignia (a "C" in a circle), stating the name of the copyright owner, et cetera. If those formalities are complied with, you do not have to bother about deposit, registration, and so on, as the United States law requires. The big thing is the printing.

Senator HUGESSEN: To put it succinctly, under Article III of this convention we will escape from manufacture in the United States?

Mr. ARBIQUE: Correct, sir.

Senator CROLL: Has the United States accepted this Universal Copyright Convention?

Mr. ARBIQUE: Yes, they were the prime mover of this convention.

Senator CROLL: They passed it through their Congress and Senate?

Mr. ARBIQUE: Yes, sir. They were the seventh ratifying power. It required 12 to bring it into effect. It was signed in 1952. The United States ratified it, and it was the seventh country to do so, in 1954. The rest of them to make up the 12 were still lacking. The twelfth country ratified in June 1955, and it came into effect three months later.

Senator CROLL: Our authors have been under a considerable disadvantage, in the light of what you say about printing?

Mr. ARBIQUE: Our publishers.

Senator CROLL: Our publishers.

Mr. ARBIQUE: Yes.

Senator BRADLEY: At other times the United States was pirating everything outside of its own country, is that not true?

Mr. ARBIQUE: Well, it all depends on what you mean by "pirating". It meant we only had protection for five years.

Senator CROLL: The point I make is this. Since 1952, which is ten years ago, we could have assisted our publishing people. Why didn't we do so? What held us back?

Mr. ARBIQUE: I think I can explain.

The CHAIRMAN: Isn't that question contrary to what the witness said? I think he said that it required 12 countries to make the convention effective, and that did not occur until 1956.

Mr. ARBIQUE: 1955.

The CHAIRMAN: Yes, 1955. So 1955 would be the effective date.

Senator CROLL: But we could in 1952 have been one of the confirming countries.

Mr. ARBIQUE: I cannot speak for the period between 1952 and 1954, but I would not worry too much, because even the United States did not come in until 1954; but on June 11, 1954 the Royal Commission on Patents Copyright and Industrial Designs was established, and it was decided that any position Canada took should await the report of the Royal Commission. This report on copyright came out in 1957 and was tabled in 1958. Then the question perhaps occurs, why we have not done anything since then. Well, it is a little harder to answer.

Senator CROLL: I think the minister said they were studying the matter which was involved, but it struck me there was a lag.

Mr. ARBIQUE: Yes, a lag.

Senator POULIOT: What do you mean by manufacturing laws?

Mr. ARBIQUE: That any literary or outside work published outside the United States, in the English language, must be printed in the United States in order to have full copyright protection in the United States. The protection there is a fairly respectable term; it is not a five year term, it is for 56 years, made up of two terms of 28 years apiece from date of publication. In order to get that term, a Canadian author must publish in the United States, and if he does not he does not get the 56 year term of protection, he only gets five years, and that only if he imports fewer than 1,500 copies.

Senator CROLL: Fifteen hundred copies from where?

Mr. ARBIQUE: From Canada into the United States.

Senator CROLL: And after that they can pirate it?

Mr. ARBIQUE: Yes. At the end of five years it has gone, anyway.

Senator FERGUSON: Have any of our authors been prejudiced because of this regulation of 1,500 copies?

Mr. ARBIQUE: Well, they have been prejudiced to this point that they do not print in Canada, they print in the United States in order to get full protection. That is where they want their sale. If they anticipate a sale of more than 1,500 copies they will print in the United States in order to get protection there. A few print simultaneously in both countries, but this is not economical under normal circumstances; so the author publishes in the United States, and therefore denies the business to Canadian publishers.

Senator FERGUSON: Then it is not the author who suffers, but the publisher?



Mr. ARBIQUE: Except that it contributes towards losing his identity as a Canadian author. He probably does not get as good a deal from an American publisher as from a Canadian publisher, and he has to compete for the publisher's favour.

Senator FERGUSSON: It is better for Canada to have them publish in Canada?

Mr. ARBIQUE: Yes, that is what this thing is all about.

Senator FERGUSSON: If I may ask another question, reverting to the length of the copyright laws in Canada, you mentioned that a copyright can be owned by a publisher or an author, and you also said the copyright lasts 50 years after the author's death. Supposing it is owned by a publisher, does the copyright last 50 years after?

Mr. ARBIQUE: I think "author" is defined in the act. Copyright subsists for the life of the author plus 50 years. If the publisher has a copyright it is by assignment from the author.

Senator CROLL: Then we get the real advantage that will come as the result of our passing this copyright convention coming not to the author but to the printers—to the publishers?

Mr. ARBIQUE: That is largely so. I think it is useless to say anything else. The advantages to the author are sort of subsidiary ones. It is a fact, that it may be easier for him to find a publisher in Canada than in the United States. Then there is this question of Canadian literature and the identity of the Canadian author. Books coming into this country from the United States, printed by Americans, it might be that we might not recognize the fact that we are reading a book by a Canadian author simply because it is printed in the United States.

Senator CROLL: Is it not the common practice, and I have a couple of books in mind, as I recall it, that Macmillan will publish here almost the same day that Doubleday will publish in the United States?

Mr. ARBIQUE: I think that is probably the case but I am not at all familiar with the technicalities involved in book publishing.

Senator MACDONALD (*Brantford*): It would be an advantage to authors so far as the publication is sold in the United States, there is no doubt about that, is there?

Mr. ARBIQUE: No, sir. The fact that he can get over 1,500 books into the United States is an advantage and his copyright will last longer.

Senator CROLL: Fifteen hundred copies published or sold?

Mr. ARBIQUE: Imported into the United States.

Senator CROLL: Fifteen hundred copies imported into the United States.

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Under the new universal convention he will have full copyright protection for 25 years, will he?

Mr. ARBIQUE: For 56 years in the United States—for 28 years and a renewal term of 28 years if he wants it. The imports are unlimited subject only to customs duty.

Senator WALL: Mr. Arbiqne, I wonder if I can ask you about the length of term. I can see the advantages, but I was concerned about the fact that we were dragging our feet in this matter, but what is Canada's situation with regard to the term of protection if the Americans were to change their own copyright act? As I understand the term, there are recommendations for internal changes both in the United States and in the United Kingdom. Let us say they changed that term to 75 years, would that term be applicable to us later?

Mr. ARBIQUE: That is true. The Americans are on the threshold of changing their act, and one of the recommendations before them is what you say, extending the term from 56 to 76 years and also getting rid of the manufacturing clause—that is to come out.

Senator CROLL: Suppose that the Americans pass a more restrictive—I do not know in what sense, in any sense you like—are we bound by that?

Mr. ARBIQUE: What they can pass in the first place has to be something that falls within the universal copyright convention to which they are parties. So far as term is concerned they cannot pass a requirement for less than 25 years. These various things are spelt out to a degree in this convention. This is a pretty loose convention, and legislation has to be pretty bad not to be able to gear itself into this convention, but then new conventions are always that way. The main thing is to get a lot of countries into a convention and so they have to be consequently very broad and unrestricted. The Berne union is a good example.

Senator CROLL: I recall the O'Leary report but I do not recall the Ilsley report. Did the Ilsley report go beyond what we are covering now? Were there other aspects that were important in that report?

Mr. ARBIQUE: Very much so.

Senator MACDONALD (*Brantford*): I think that the Ilsley report recommended 56 years.

Mr. ARBIQUE: They recommended the American term to a considerable extent. They could not recommend the American term solely, because of obligations under the Berne convention. They recommend 56 years from date of publication or death of the author, whichever is later, and the reason for that is due to the requirement of the Berne union. Consequently they have recommended this combination of terms.

Senator MACDONALD (*Brantford*): Who recommended that?

Mr. ARBIQUE: The Ilsley commission recommended that. I think it is only fair to point out to you that with respect to the matter of term and the Ilsley commission recommendation thereon, ratifying this convention now closes the door on the Ilsley commission recommendation as to term. This is the reason for that: Article 4 of the convention is the term article and it says that the term of protection will be the life of the author plus 25 years minimum. This is because when this convention was framed life plus 50 years, or life plus something was the term in almost all countries, except the United States. In order to attract the United States into the convention it was necessary, since they were dead against a term based on the life of the author—they never had that term—to allow for a term based on publication; but it goes on to say that any state at the time they enter this convention having a term based on publication can keep it. But note that it says, at the time they enter the convention. At the time the convention comes into force in that country this must be in effect in order for them to have it. In other words it would not be possible to swing across to a term based on date of publication in any country ratifying the convention.

Senator WALL: In other words we are now making what is in fact a legislative decision?

Mr. ARBIQUE: Yes, in anticipation of the new copyright act. Our own act allows for this. There is nothing incompatible with our present act. If you are thinking in terms of a revision of the Copyright Act this is true, we are making a decision to stay with a term based on the life of the author, not necessarily our present term but as long as it is life plus 25 years. The United States on their part could swing over to this because this is a sort of ground or base term, this life plus 25 years. The United States could swing to that,

but nobody could swing the other way. You cannot swing from a term based on the life of the author to one based on the date of publication, once you have ratified.

Senator WALL: You have said, in effect, that what we are doing is putting part of the commission's recommendations into the wastepaper basket at this moment.

Mr. ARBIQUE: That is right, sir.

Senator WALL: Does that report recommend a term, or is it life of author plus?

Mr. ARBIQUE: The Ilsley Commission report recommends a term for published works of 56 years from the date of publication, or life of the author, whichever is the later. That is, on the date of death, if that is more than 56 years from the date of publication, the copyright would cease—not as is the present case. It would be shortening the term. I should like to point out that the Ilsley Commission recommendation was for this shorter term. This was to line up with the Americans primarily, because they did not want American works remaining in copyright in Canada when they went into the public domain in the United States. But they did not take cognizance of a provision in both the Universal Copyright Convention and the Berne Union—they did not take sufficient cognizance of it—in which it is set forth that under no circumstances need the term for a work be longer than the term in the country of origin. In other words, we would not be bound to protect American works in Canada for the life of the author plus 50 years, but only for 56 years from publication.

Senator MACDONALD (*Brantford*): Does this have any retroactive effect? Does it affect any authors who published in the United States before we entered this agreement?

Mr. ARBIQUE: Yes. Interim copyright under American law would be converted to full American copyright on Canadian accession to the convention. In other words, a Canadian author now enjoying say, the third of five years of interim copyright, on the date of accession of Canada to the convention it is automatically converted, under American law, to the present 56-year period.

Senator HUGESSEN: As I understand you, what has really happened since the Ilsley Commission is that the shoe is now on the other foot: instead of coming under the American system of 28 plus 28 years we are hoping the United States will come under the general system of life of author plus so many years?

Mr. ARBIQUE: No, they will not do that. There has been a considerable amount of pressure in the United States to do that. This existed before the war and since the U.C.C. came into effect, but they will not abandon it. They are not making the term one of life plus 50 years, but instead propose to raise the term from 56 to 76 years, which, when you figure it out, works out to about the same thing. But it is still based on the date of publication. It will continue for 76 years beyond the date of publication.

Senator POULIOT: From the practical point of view, quotations are permissible for literary reviews?

Mr. ARBIQUE: Yes, sir.

Senator POULIOT: Is it necessary to get the permission of the publisher who has the copyright, or the author who has the copyright, to publish a page from any author, in the report? Is it necessary to have special permission to publish a page from a book in the report?

Mr. ARBIQUE: This is spelled out in our own Copyright Act, and it is not governed by the convention. This is a matter for domestic legislation. Within our own Copyright Act there is certainly provision with respect to the reasonable usage of work.

Senator POULIOT: But what I would like to know is if it would be covered by this too? I have not read this.

Mr. ARBIQUE: I do not think it is. I rather doubt the Berne one goes into that either. These are not supposed to be the law; these do not form part of the law: all they do is to set limits within which domestic legislation must come, and must guarantee a certain minimum or a certain measure of copyright protection. Nowhere in the convention, in either this convention or the Berne Union, does it say what the rights of the author will be. This is embodied in domestic law.

Senator POULIOT: When an excerpt from a book is published anywhere, with the references—such a book, by such an author, published by such a company—it is rather an advertisement.

Mr. ARBIQUE: Mr. Cattanach has drawn this to my attention. This is covered in the Canadian Copyright Act, section 17(2), which says:

“The following acts do not constitute an infringement of copyright:”—and those acts are: For purposes of study; when author not owner; when permanently situate in public place; short passage for schools; not more than two passages; newspaper report of public lecture unless notice to contrary; reading of extract—and so on. This is found in our present legislation, but the convention does not go any further than the present legislation.

Senator POULIOT: Will a page be considered as a short passage?

Mr. J. W. T. MICHEL, *Commissioner of Patents*: It depends on the length of the book. If the book were two pages long and you published one, you would be publishing half the book. The act is very skimpy about it, and says, “short passages”. If you published three or four pages out of 300, there is nothing wrong there.

Senator WALL: I should like to come back to this problem of limiting our flexibility for changing our own copyright law if we accede to this convention. I am still not perfectly clear as to how far we are limiting ourselves, so that we may not make changes or accept some of the recommendations of the Ilsley report. In this connection I am thinking of a private member's bill that has been introduced in the other place, which I have not had a chance to study very fully, but which, I gather, is in large measure an implementation of the Ilsley Commission report, minus certain things. Apparently, it would be an abortive procedure if we were to go ahead and accept this, but I am wondering whether you can tell me in what important areas is our flexibility to change our own Copyright Act—maybe to bring it in line with some of the recommendations of the Ilsley Commission—circumscribed if we agree to this.

Mr. ARBIQUE: The Ilsley Commission's recommendations are all in line with the Universal Copyright Convention because they recommend adherence to this convention. The only reason why the convention was to be ratified after the change in the law was because of the nature of the recommendation that the Ilsley Commission was making just in that one respect we have discussed—that is, the term. That is the only one.

In other words, any other recommendation of the Ilsley Commission could be implemented within the terms of the Universal Copyright Convention.

Senator CROLL: This refers to literary, scientific and artistic works. Does the coverage extend to radio and television?

Mr. ARBIQUE: Radio and television broadcasting and sound recordings are not covered in the Convention. In other words, we could enact what we like with respect to those particular things. Moving pictures are covered.

Senator MACDONALD (*Brantford*): I thought radio and television were covered in the Berne agreement, in the last revision.



Mr. ARBIQUE: Yes sir, I am sorry; that is true; but the recommendation of the Ilsley Commission is that we do not accede to the Brussels revision.

Senator MACDONALD (*Brantford*): I thought the Canadian Authors' Association had requested that our act should provide for radio and television.

Mr. ARBIQUE: For ratification, certainly, of the Brussels revision of the Berne agreement.

Senator MACDONALD (*Brantford*): It was approved by the Brussels revision?

Mr. ARBIQUE: And sound recordings.

Senator MACDONALD (*Brantford*): But we have not ratified that?

Mr. ARBIQUE: No sir; and the recommendation of the Ilsley Commission is that we do not ratify the Brussels revision.

Senator MACDONALD (*Brantford*): Did the Canadian Authors' Association make the representations to the Ilsley Commission or to the Secretary of State?

Mr. ARBIQUE: To both. They continue to press their case in that connection.

Senator MACDONALD (*Brantford*): Would you like to say why?

Mr. ARBIQUE: The primary reason is that the Rome revision provides for a limited term. Most of these representations relate to term, although the term is not the most complex part. The Rome revision provided for life of the author plus 50 years, but if all countries participating do not have such a term then the domestic law will apply.

The Brussels revision says the term will be life of the author plus 50 years. The Canadian Authors' Association is concerned with the possibility that a new copyright act might restrict the term. They do not like the Ilsley Commission recommendation because it restricts the term, it has pulled it down to 56 years from publication from the previous one of life of the author plus 50 years. Therefore, they are concerned that the term should be life of the author plus 50 years as recommended by the Brussels revision. I do not imagine there would be any complaint on the part of the Canadian Authors' Association if the act said life of the author plus 50 years; but they are afraid of the possibility that a new act might reduce the term—unless it also provides for ratification or accession to the Brussels revision.

Senator CROLL: Getting back to the suggestion I made with respect to radio and television, this Universal Copyright Convention does not cover that?

Mr. ARBIQUE: It does not cover radio, television or sound recordings.

Senator CROLL: Or sound recordings?

Mr. ARBIQUE: That is right.

Senator CROLL: In the light of the world position today, how was that overlooked?

Mr. ARBIQUE: I do not know. I cannot tell you how that come about, sir, but I would point out that since it does not cover these things, it does not impose any limitation on our freedom of action with respect to these types of works.

Senator CROLL: The reverse is also true.

Mr. ARBIQUE: Yes, that is right.

Senator CROLL: And there have been no representations by any of these people with respect to this? It is not a matter of great concern?

Mr. ARBIQUE: I gather that it is not, sir. This is a very popular convention and it is a loose one. I think that everyone welcomed it as an opportunity to move into the United States market through the front door rather than the back door. At the present time we can get full American copyright protection without printing in the United States, since we can print instead in Britain

or in one of the other countries which are signatories. However, that is the back door method. I repeat that we do not have to print in the United States and I am sorry if I left that impression; we can print in any of the other countries which are signatories, such as Britain, France or Germany.

Senator HUGESSEN: But we cannot print in Canada?

Mr. ARBIQUE: The back door method does the Canadian printing industry no good, but it also does the American printing industry no good. However, that is not the point.

Senator MACDONALD (*Brantford*): Do I understand the position to be that, from the day we ratify the Universal Copyright Convention a Canadian author or publisher can publish in Canada and from then on he will have copyright protection for 25 years at least in the United States?

Senator HUGESSEN: For 28.

Mr. ARBIQUE: Yes. This much is certain, but that is only under the convention. He will get much more, but that will be the minimum. There is a time lag. After accession, a certain number of months must elapse, under one of the administrative provisions. It is three months.

Senator MACDONALD (*Brantford*): Three months after the day it is ratified he will have his minimum of 25 years from date of publication?

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Therefore, I suppose there is some urgency, notwithstanding the fact that we waited all these years, to have this ratified as soon as possible, in the interest of authors and publishers in Canada?

Mr. ARBIQUE: Yes, sir, that is certainly true. Incidentally, we attempted some months ago to make diplomatic representations to the United States on the basis of pressure that was put on the Secretary of State by publishers in Canada to have these clauses made inoperative; but we knew what the answer would be, that this would require changing their law and that it would be far easier for us to ratify the Universal Copyright Convention.

Senator MACDONALD (*Brantford*): Why are we ratifying only one protocol? I understand there are three.

Mr. ARBIQUE: Yes, there are three. The first two protocols would require amending legislation. The third one does not. That is why we are doing it in this way. The third one is just a means of making the accession of a country conditional on the entry of the United States into the agreement, without saying so in either the convention or the protocol. It can do no good now that the United States has ratified this, but it can do no harm either, and we propose ratification.

The other two protocols have to do with extending our act to stateless persons and refugees—in other words, assimilating them with nationals of other countries. This will require legislation. They also have to do with extending our act to member countries of the Organization of American States, and this will require legislation.

In other words, there is no incumbency on a nation becoming party to this convention to ratify all the protocols. The protocols are quite separate. Protocol 3 can do no good, and it can do no harm.

Senator CROLL: I move adoption.

Senator WALL: I will second the motion with this qualification, that I think we would have been far tidier if we had made the necessary changes in our laws first.

Senator MACDONALD (*Brantford*): I quite agree, but I would not want to hold up ratification today on that account.

The CHAIRMAN: Are all honourable senators agreed?

Senator POULIOT: I have just one more question. If that convention is agreed to we will become signatories with the United States. When that occurs will the rest of the laws concerning importations of books into the United States disappear?

Mr. ARBIQUE: Yes.

Senator POULIOT: So we will be able to sell in the United States any number of Canadian printed books?

Mr. ARBIQUE: That is right, sir. This is because of a provision in the United States law that says that these restrictions in the United States law must remain inoperative insofar as any member of the Universal Copyright Convention is concerned.

Senator MACDONALD (*Brantford*): So that the sale of Canadian publications in the United States is rather the opposite side of the question raised in the O'Leary report?

Mr. ARBIQUE: Yes.

Senator POULIOT: And vice versa?

Mr. ARBIQUE: Yes, but we already protect them in that respect.

The CHAIRMAN: Is it the wish of the committee to recommend this Convention to the favourable consideration of the Senate?

Hon. SENATORS: Agreed.

The committee adjourned.

## APPENDIX "A"

(See p. 9)

*Memberships in the Convention (as at December 1, 1961)*

Berne Union	Universal Copyright Convention	Dual Membership
Australia	Andorra	Austria
Austria	Argentina	Belgium
Belgium	Austria	Brazil
Brazil	Belgium	Czechoslovakia
Bulgaria	Brazil	Denmark
Canada	Cambodia	Federal Republic of Germany
Ceylon	Chile	France
Czechoslovakia	Costa Rica	Great Britain
Denmark	Cuba	Holy See
Federal Republic of Germany	Czechoslovakia	Iceland
Finland	Denmark	India
France	Ecuador	Ireland
Great Britain	France	Israel
Greece	Federal Republic of Germany	Italy
Holy See	Haiti	Japan
Hungary	Holy See	Lebanon
Iceland	Iceland	Liechtenstein
India	India	Luxemburg
Ireland	Ireland	Monaco
Israel	Israel	Pakistan
Italy	Italy	Philippines
Japan	Japan	Portugal
Lebanon	Laos	Spain
Liechtenstein	Lebanon	Sweden
Luxemburg	Liberia	Switzerland
Morocco	Liechtenstein	
Monaco	Luxemburg	
Netherlands	Mexico	
New Zealand	Monaco	
Norway	Nicaragua	
Pakistan	Nigeria	
Philippines	Pakistan	
Poland	Paraguay	
Portugal	Philippines	
Roumania	Portugal	
Siam	Spain	
Spain	Sweden	
South African Union	Switzerland	
Sweden	United Kingdom	
Switzerland	United States of America	
Tunisia		
Turkey		
Yugoslavia		





Fifth Session—Twenty-fourth Parliament

1962

THE SENATE OF CANADA  
PROCEEDINGS  
OF THE  
STANDING COMMITTEE ON  
**EXTERNAL RELATIONS**

To whom was referred

International Wheat Agreement to be opened for signature at  
Washington, D.C., on April 19, 1962.

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The Honourable G. S. THORVALDSON, *Chairman*

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THURSDAY, April 12th, 1962

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WITNESSES:

Dr. Merrill Menzies, Special Adviser on Grain Policy, Department of Agriculture; Mr. A. R. A. Gherson, Internal Relations Branch, Department of Trade and Commerce; Mr. R. M. Esdale, Chief of the Grain Division, Department of Agriculture.

REPORTS OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

## THE STANDING COMMITTEE ON EXTERNAL RELATIONS

The Honourable GUNNAR S. THORVALDSON, *Chairman*

### The Honourable Senators

*Aseltine	Hardy	Robertson
Beaubien ( <i>Provencher</i> )	Hayden	Savoie
Blois	Hnatyshyn	Taylor ( <i>Norfolk</i> )
Boucher	Howard	Thorvaldson
Bradley	Hugessen	Turgeon
Brooks	Inman	Vaillancourt
Crerar	Jodoin	Veniot
Croll	Lambert	Vien
Farquhar	MacDonald	Wall
Farris	*Macdonald ( <i>Brantford</i> )	White—34.
Fergusson	McLean	
Fournier	Monette	
Gouin	Pouliot	

(Quorum 7)

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\*Ex officio member

## ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, April 11th, 1962.

The Honourable Senator Aseltine, P.C., moved, seconded by the Honourable Senator Pearson:

That it is expedient that the Houses of Parliament do approve the International Wheat Agreement to be opened for signature at Washington, D.C., on April 19, 1962, and that this House do approve the same.

After debate,

The Honourable Senator Aseltine, P.C., moved seconded by the Honourable Senator Pearson, that the Agreement be referred to the Standing Committee on External Relations for consideration and report.

The question being put on the motion, it was—

Resolved in the affirmative.

J. F. MacNEILL,  
*Clerk of the Senate.*





## MINUTES OF PROCEEDINGS

THURSDAY, April 12, 1962.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 11.00 A.M.

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*Present:* The Honourable Senators Thorvaldson, *Chairman*; Aseltine, Blois, Fergusson, Inman, Jodoin, Lambert, MacDonald, Taylor (*Norfolk*)—9.

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*In attendance:* The Official Reporters of the Senate.

The International Wheat Agreement to be opened for signature at Washington, D.C., on April 19, 1962, was read and considered.

On Motion of the Honourable Senator Blois, it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Agreement.

Heard in explanation of the said Agreement were: Dr. Merrill Menzies, Special Adviser on Grain Policy, Department of Agriculture; Mr. A. R. A. Gherson, Internal Trade Relations Branch, Department of Trade and Commerce; Mr. R. M. Esdale, Chief of the Grain Division, Department of Agriculture.

It was Resolved to report recommending that the said Agreement be approved by the Senate.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,  
*Clerk of the Committee.*

## REPORTS OF THE COMMITTEE

THURSDAY, April 12, 1962.

The Standing Committee on External Relations, to whom was referred the "International Wheat Agreement to be opened for signature at Washington, D.C., on April 19th, 1962," report as follows:

Your Committee recommend that authority be granted for the printing of 800 copies in English and 200 copies in French of their proceedings on the said agreement.

All which is respectfully submitted.

G. S. THORVALDSON,  
*Chairman.*

THURSDAY, April 12, 1962.

The Standing Committee on External Relations have in obedience to the order of reference of April 11th, 1962, considered the "International Wheat Agreement to be opened for signature at Washington, D.C., on April 19th, 1962,".

Your Committee recommends that the said Agreement be approved by the Senate.

All which is respectfully submitted.

G. S. THORVALDSON,  
*Chairman.*

# THE SENATE

## STANDING COMMITTEE ON EXTERNAL RELATIONS

### EVIDENCE

OTTAWA, Thursday, April 12, 1962.

The Standing Committee on External Relations, to which was referred the International Wheat Agreement, met this day at 11 a.m.

Senator Gunnar S. Thorvaldson, (*Chairman*), in the Chair.

On a motion duly moved, it was agreed that a verbatim report be made of the committee's proceedings on the International Wheat Agreement.

On a motion duly moved, it was agreed that 800 copies in English and 200 copies in French of the committee's proceedings on the International Wheat Agreement be printed.

The CHAIRMAN: Honourable senators, we have a quorum. We have with us today Dr. M. W. Menzies, Grain Policy Adviser, office of the Minister of Agriculture; Mr. R. M. Esdale, Chief, Grain Division, Department of Agriculture; Mr. A. R. A. Gherson, of the International Trade Relations Branch, Department of Trade and Commerce, and Mr. John Channon, of the Department of Agriculture. I was wondering whether it would be suitable to the committee if we asked Dr. Menzies to make a general statement in regard to the International Wheat Agreement, giving its background, and then we could ask such questions as we desire.

Dr. M. W. Menzies, Grain Policy Adviser, Office of the Minister of Agriculture: Mr. Chairman and honourable senators, you will all have before you, I assume, copies of the International Wheat Agreement, 1962, which appeared in the *Debates of the Senate* and in the *Minutes of the Proceedings of the Senate* of April 10. This agreement was finally reached after approximately six weeks of negotiation at Geneva this winter and spring. You may be interested in the background to it. In January of this year the Government of Canada received an invitation from the Secretary General of the United Nations requesting Canada to participate in the United Nations Wheat Conference commencing on January 31 in Geneva, designed to seek either renewal or replacement of the current International Wheat Agreement which came into effect on August 1, 1959, and which expires this year on July 31.

In authorizing the dispatch of a large and strong delegation of senior Government officials, Canadian Wheat Board representatives and members of the advisory committee of the Canadian Wheat Board who, as you know, at the same time are leaders of the major farm organizations in Western Canada, the Government had, I believe, two major thoughts in mind. The first consideration was the important part that successive wheat agreements since 1949 have played in assuring supplies of wheat to importing countries and markets for wheat to exporting countries at stable and equitable prices. The second consideration was the wide support for the International Wheat Agreement among producer organizations in Western Canada.

At this conference very close to sixty countries took part. They were either officially represented or they took part as observers, and the conference ended only a month ago, on March 9.

Subject to ratification by the governments concerned, a new three-year International Wheat Agreement, very similar in structure to the 1959 agreement, will come into force on August 1, so that there will be no gap between the current agreement and the new one. Should all the major exporters participating in the conference, including the U.S.S.R., ratify the agreement, virtually all the important sources of wheat will be brought within the ambit of international wheat co-operation. This is the first time we will be able to say that.

The new price range, which was finally negotiated, raises the minimum price, in U.S. dollars, for No. 1 Northern in store Fort William/Port Arthur and Vancouver from \$1.50 to \$1.62½, and the maximum price from \$1.90 to \$2.02½.

At the rate of exchange existing on March 12 this price range in Canadian dollars was \$1.71½ minimum and \$2.13½ maximum. Now, as you realize, any fluctuation in the rate of exchange would bring corresponding fluctuations in the Canadian prices of the maximum and minimum, but very little change has taken place since these prices in Canadian dollars were calculated.

It is well worth while noting here that the actual selling prices are not, of course, these maximum and minimum prices at the present time, but they will be within this price range for the next three years. What the actual prices will be at any given time will simply depend on market conditions, basically on supply and demand factors. It is also worth pointing out in this connection that the actual selling price in Canadian dollars for No. 1 Northern at Fort William fell during the course of the present agreement, which will end in a few months time, to a low of \$1.63½ in November, 1960. That is about a year and a half ago. This low price was approximately 50 cents lower than the new maximum price under the new agreement, and it was even about eight cents lower than the new minimum in Canadian dollars.

This indicates the extent to which wheat prices have recovered in the last year or so, and this has been due to two main factors. The first is a really marked change in the market situation, particularly for quality wheats such as Canada produces, almost alone, in volume. The second factor is the current discount on the Canadian dollar. I think the significance of the higher minimum price is apparent, for we have some evidence here of the extent to which prices have fallen in the recent past due to excessive supplies, and if they were to emerge again the new minimum would be very significant from the point of view of the producers.

The new wheat agreement provides that so long as prices remain below the maximum price, as specified in the agreement, each member importing country undertakes to purchase from member exporting countries a specified percentage of its total commercial purchases of wheat. In Senate *Hansard* of April 10, if you have it in front of you, you will find this indicated in Annex A on page 485. You will see in Annex A the percentage undertaking of importing countries. This is the percentage of their total commercial purchases of wheat to which importing countries commit themselves to purchase from member exporting countries.

The corresponding obligation of exporting countries is that they agreed in association with one another to supply all the commercial requirements of the importing countries so long as prices are lower than the maximum price. When prices reach the maximum, member exporting countries undertake to supply member importing countries with a definite quantity of wheat based upon their average purchases over a recent period of years and at a price not greater than the maximum.

At the maximum price importing countries are released from their obligation to make their purchases from member exporting countries. This release has no real significance because, of course, with all the important sources of



wheat within the agreement, the price of any wheat outside would be at a higher price than the maximum. Therefore, the importing countries would in fact be buying from members.

The agreement also continues to provide for an annual review of the world wheat situation. This was first introduced as an important feature of the International Wheat Agreement in 1959, and since then three annual reviews have been held. I will leave with the Chairman a copy of the latest annual review, which is published in English, French and Spanish. I believe the Russian language will also be official in the new agreement. These annual reviews are carried out in the light of information currently obtainable in relation to national production, stocks, prices and trade including special transactions under government assistance programs.

In anticipation of a possible wider participation of exporters in this agreement compared with the past agreements, as I pointed out the member importing countries have accepted a commitment to purchase a larger percentage of their commercial requirements than was the case in the 1959 agreement. This is very important to us. Another matter of importance in this agreement is that the safeguards for commercial marketings have been to some substantial extent improved in this agreement over the last one. There is a large volume of international trade in wheat carried on under some form of government auspices, either under the PL 480, which is virtually gift wheat, or under long-term credit or barter involving a substantial amount of government intervention, and we define this trade in wheat as non-commercial and it is treated separately under the agreement.

Consideration in this new agreement was also given to the effective utilization of excess supplies of wheat, when and where they might exist, in raising levels of consumption and in assisting in the general economic and market development in the newly-developed countries with low levels of individual income.

The conference at Geneva, while it did recognize that these programs are now provided, and have been for some years, by individual governments, notably the United States and to a substantial extent by Canada as well, and, in addition, on a multilateral basis—and here the proposed world food program currently being developed under the auspices of the F.A.O. is a case in point—in spite of this the International Wheat Conference, recognized that one objective of the agreement was to increase consumption. Therefore, the agreement should reflect the concern of the conference about these special problems of the developing countries.

I should point out that this agreement is basically a commercial agreement, although the non-commercial trade in wheat is reported to the Council and is fully taken into account in the annual reviews.

The new agreement represents quite a significant advance on the one developed in 1959, although it remains basically the same in structure. With all the important sources of wheat covered by the new agreement, importers will enjoy, despite quite sharp reductions in wheat supplies, particularly in hard wheats, a greater assurance that they will be able to purchase their commercial supplies of wheat at equitable and stable prices. At the same time, exporters will benefit by reason of the increased price range, and because of the increased obligations of importing countries and by reason of the improved safeguards for commercial marketings.

As was pointed out by the Acting Minister of Agriculture, the agreement at Geneva carried the unanimous support of the producer advisers who were members of the Canadian delegation throughout the conference. I wonder, sir, if you would like the names and positions of the advisers read into the record?

The CHAIRMAN: Yes, that would be appropriate.

Dr. MENZIES: The producer advisers are as follows:

A. W. Runciman, President, United Grain Growers Limited, Winnipeg; J. S. Stevens, Director, United Grain Growers Limited, Winnipeg. Mr. Stevens actually represents the province of Alberta on the advisory committee to the Canadian Wheat Board; C. W. Gibbins, President, Saskatchewan Wheat Pool, Regina; A. P. Gleave, President, Saskatchewan Farmers' Union, Saskatoon; Gordon L. Harrold, Chairman, Alberta Wheat Pool, Calgary; W. J. Parker, President, Manitoba Wheat Pool, Winnipeg.

I might add, sir, that the delegation was headed by J. H. Warren, Assistant Deputy Minister (Trade Policy), Department of Trade and Commerce. His alternates were W. C. McNamara, Chief Commissioner, Canadian Wheat Board, Winnipeg, and C. F. Wilson, who is now Consul-General for Canada in Chicago, Illinois, a man with long experience in wheat matters.

Senator LAMBERT: I asked a question in the house yesterday whether any of the established private trades associated with the Winnipeg Grain Exchange, and co-operating a good deal with the wheat board, were represented at the conference. I realize that Mr. McNamara, chairman of the board, was formerly identified with one of the old-line companies and was in charge of the Saskatchewan Wheat Pool. I was just wondering whether in view of the co-operation that exists in the process of exporting wheat on the part of a number of private organizations, and one might mention particularly the one Mr. Powell represents, if any of these people had an opportunity to present any opinions or advice with respect to this agreement?

Dr. MENZIES: I might say, sir, they were not officially represented on the delegation.

Senator LAMBERT: I would not judge so from the list you presented.

Dr. MENZIES: I might say that the representation of the producers was due to their official position as members of the advisory committee to the wheat board rather than their positions as presidents of various farm organizations.

Senator LAMBERT: Is the United Grain Growers represented on that advisory committee?

Dr. MENZIES: Yes. As a matter of fact, this time by two members.

Senator LAMBERT: They attended the conference but are they advisory members to the wheat board?

Dr. MENZIES: That is right. I might add that, as you would expect, the wheat board is in very intimate touch with all elements of the grain trade and is well aware of their views on all these matters.

Senator LAMBERT: They do facilitate co-operation with a number of the old-line organizations in the grain exchange in the actual business of exporting wheat.

Dr. MENZIES: In fact, the private firms act as agents of the board in the export of wheat.

Senator LAMBERT: That is right. Mr. Ken Powell's organization, particularly, has done a great deal of exporting in co-operation with that arrangement. I think also the Federal Grain and the Richardsons have been active in this respect.

The CHAIRMAN: Are there any further questions?

Senator FERGUSSON: Dr. Menzies, you said that more countries took part in this conference than in the previous ones. Would you tell us what additional countries participated?

Dr. MENZIES: I think I will pass this question to Mr. Gherson, if I may.

**Mr. A. R. A. Gherson, International Trade Relations Branch, Department of Trade and Commerce:** The significant addition to the conference on this occasion was the Soviet bloc, which was represented as full participants by the U.S.S.R. and Poland. They were also represented as observers by Czechoslovakia and Romania. I do not know whether you would include Yugoslavia in the Soviet bloc but Yugoslavia was also represented by an observer. In addition, a number of overseas territories of the United Kingdom which have lately achieved independence, were there for the first time as full-fledged members of the United Nations, particularly Nigeria. Other members who have emerged from trusteeship, such as Liberia, were represented for the first time. I would say that the new countries and the Soviet bloc made their participation felt at the conference.

**Senator FERGUSON:** Thank you.

**Senator Lambert:** I notice in the report of the International Wheat Agreement of 1959 thirty countries were listed as importing countries, and in 1962 thirty-one are so listed. There is not too much difference. One important omission is that of Russia. Russia was a considerable importer from Canada by agreement and it is now listed amongst the export countries. The 1959 agreement did not list the exporters at all, just the importing countries. One would be interested in knowing just what the relationship is with respect to the Union of Soviet Socialist Republics at this time in view of the contract and arrangements made with that nation during Mr. Howe's time. Also why is it China is not included amongst the importing countries here?

**Mr. GHERSON:** Mr. Chairman, in answer to the honourable senator I would point out first that the U.S.S.R., in the 1959 agreement and in previous agreements, participated as an observer but, in fact, did not sign or ratify the agreements. To that extent they were outside.

**Senator LAMBERT:** They were free to make a special contract with Canada, I suppose?

**Mr. GHERSON:** They were free to act as they wished. They were not bound by the provisions of the agreement nor did they undertake any obligations under it. This is the first time that the U.S.S.R. has given a serious impression that it will in all probability become a member of the agreement.

**Senator LAMBERT:** As an exporter.

**Mr. GHERSON:** As an exporter. In determining its status I think that every country has the right to choose how it wants to participate, but the conference did in fact lay down certain criteria which governments must take into account in determining their status. The most important of these were the potential of export availabilities during the currency of the agreement, and the ability to undertake their obligations as exporters during the currency of the agreement. It is on this basis that the U.S.S.R. determined its status as an exporting country. This, of course, does not preclude the possibility that an exporting country can always purchase as an importer.

**Senator LAMBERT:** I was going to mention what might be called a flexible feature of this agreement, provided in article 12. It contains four paragraphs, compared with three rather shorter ones in the 1959 agreement. It strikes me that in article 12 there is a good deal of opportunity for re-export if in agreement to the parties concerned. In other words, a country like Switzerland might import a great deal of wheat from Canada and re-export it elsewhere. There has been some suggestion that this re-export business in the past has reached countries which were regarded as inimical to our general interests. I suppose that might apply to China also.

Paragraph 3 of article 12 says, in part:

Any importing country . . . may, by written notification to the Council, apply for a reduction in its percentage undertaking. In such a case, the Council shall reduce that importing country's percentage undertaking by the proportion that its maximum annual commercial purchases during the years determined under Article 15 with respect to the non-participating or withdrawing country bears to its datum quantity with respect to all countries listed in Annex B . . .

That also applies in the other way; that is, the exporter and importer by an understanding through approval of Council can decrease or increase the supplies that it might need. Now, to that extent I think the realistic view of this agreement is that it is a very flexible instrument. Also there are escape clauses which would enable the parties to the agreement to alter a good deal of the effect of it and their participation in it. In other words, am I right in assuming that the International Wheat Agreement is a very idealistic conception, something like the objectives of the United Nations itself for peace in the world, which may be qualified by exceptional developments from time to time? Then, of course, is the very important question with regard to maximum and minimum prices, especially minimum prices. We have had complaints in Canada with respect to United States' exports, where bloc currencies are used and certain pressure sales to relieve the large carryovers in the United States of surpluses have been built up. Was there any discussion about this during the recent conference in Geneva as to the pressure of economic conditions in countries with surpluses to use those surpluses by making special sales below the prescribed prices of this agreement? I think I am not irrelevant in referring to this possibility.

Mr. MENZIES: This is a major aspect of the agreement, and Mr. Gherson is quite capable of dealing with that.

Senator LAMBERT: All of us, including myself, are sympathetic with the degree of co-operation which can be developed in dealing with this problem, just as we are sympathetic with the objectives of the United Nations in their efforts to create peace in the world. The longer time elapses the more difficulties arise in realizing these idealistic conceptions, such as were fresh in the minds of everybody when the United Nations was first formed.

The CHAIRMAN: Would you care to comment on that, Mr. Gherson?

Mr. GHERSON: The honourable senator has raised a number of points. I apologize for not having answered the question he has raised before. If I might do so now regarding Chinese participation in the conference, China is not a member of the United Nations, and therefore—

Senator LAMBERT: Is not Nationalist China a member?

Mr. GHERSON: Nationalist China is, and as such was invited to attend, but did not participate.

The CHAIRMAN: I take it that Communist China would not be invited to attend?

Mr. GHERSON: No; not being a member there was no invitation. Now, I believe the senator was dealing with article 12 of the agreement?

Senator LAMBERT: The transactions between Canada and China on wheat were not done as members of the United Nations?

Mr. GHERSON: Outside the context of the agreement, sir.

Senator LAMBERT: I know. That is what I am trying to throw some light on, the whole picture of import and export requirements of countries. The United Kingdom, Japan and Russia have been three of the largest importers of Cana-



dian wheat in recent years. What is the prospect in the future? If Communist China cannot be considered as a party to this agreement, then what about Canada's obligation in connection with exporting to that country?

Mr. MENZIES: We have no obligation to Communist China under the agreement, because they are quite outside. It is only within the terms of another agreement that we have obligations to China.

Senator HORNER: In other words, there were no objections raised at the meeting to the sale to China by Canada?

Mr. MENZIES: Oh, no.

Senator LAMBERT: But it does affect the whole question of the International Wheat Agreement?

Senator BLOIS: I do not think so. Once we have fulfilled our contracts here, I think we are free to sell anywhere.

Senator ASELTINE: Yes, anywhere.

Mr. MENZIES: Our obligations are very explicit along with all importers and exporters, and we are fully obligated to fulfil them. We also have certain rights. Keeping in mind the obligations we might be called upon to fulfil at the maximum price, the datum entitlements that importers have built up; we have certain obligations there, and consequently we would have to keep those in mind making quite sure that we have enough supplies to provide for those obligations.

Senator HORNER: In other words, the main question is the maximum and minimum price and we are bound by that. There might be a shortage, but we are obligated to supply at those prices.

Senator LAMBERT: I presume Russia was represented at this conference?

Mr. GHERSON: Yes, sir.

Senator LAMBERT: Would they represent Communist China as well?

Mr. GHERSON: No, sir; they represented themselves only.

Senator LAMBERT: Would Communist China be invited to attend?

Mr. GHERSON: Well, she was not.

Mr. MENZIES: Mr. Chairman, I might say that in the Senate Debates where this agreement is reproduced on page 469, you will note the heading, "Part II.—Rights and Obligations". This section sets down the rights and obligations of members, both exporters and importers.

Senator LAMBERT: The question I am about to ask does not bear on the agreement, because it is an unknown quantity at the moment. We know what the import requirements are here. What on the other side of the picture do you consider to be the prospects of the exporting countries for the year 1962-63? There has been a big reduction in the carryover of surpluses in all countries, of course, and I suppose, generally speaking, that reduction applies the world over, because you have been able to get a higher minimum and a higher maximum price, cited in the agreement. So one would assume the imports are likely to be greater than supplies available.

Mr. GHERSON: Yes.

Senator LAMBERT: We have the report of the Wheat Board here which throws some light on Canada's position. I was wondering what the prospects are for the maintenance of these prices, and what the temptation is to sell under them if necessary.

Mr. GHERSON: Well, the total trade in 1961 was of the order of about 42 million tons; just about one and a half billion bushels.

Senator LAMBERT: Is that long tons?

Mr. GHERSON: Metric tons, sir.

Mr. MENZIES: And the prospect is that it will be a little higher this year, I believe?

Mr. GHERSON: Yes, the total trade between importing and exporting countries under the agreement in the last year, 1960-61, was of the order of 26 million tons, which is just under one billion bushels, or, 955 million bushels.

Senator LAMBERT: That is 26 million tons?

Mr. GHERSON: Yes.

Senator LAMBERT: The 42 million tons you referred to represents what?

Mr. GHERSON: That is the total world trade.

Senator HORNER: Is flour included in that figure?

Mr. GHERSON: Yes, sir.

Senator ASELTINE: Everything?

Mr. GHERSON: Everything?

Senator LAMBERT: The purpose of my question is to ascertain the balance between import and possible export requirements. There is still a lot of wheat in the world.

Mr. GHERSON: In so far as the obligations of the exporting countries are concerned, I would say they can be fully met.

Senator LAMBERT: Have you any indication in your figures as to how much those available supplies have been reduced in the past year or two? I am speaking now of the world's carryover of wheat, which is fairly considerable on this continent alone.

Mr. MENZIES: I wonder if Mr. Esdale could comment on this, this is a domestic market?

Mr. ESDALE: Mr. Chairman and senators, it is true there are large quantities of wheat, that have been reduced slightly. The fact is that the United States is the one remaining country with excess supplies. Australia has just finished its crop year with record exports. Australia is also participating in this Chinese business, and so its exports are in pretty good shape in relation to its stock position. The same applies to the Argentine. Of course, you are very familiar with Canada's position, which had a carryover of approximately  $\frac{1}{2}$  billion bushels on July 31, 1961, and it should be slightly under 300 million bushels at the end of next July. The quality factor is important this year. The United States this year had its spring crop reduced, with premiums being paid for high protein, and this has directed buyers to Canada for very high quality wheat. Also this year we are in a strong position with stocks substantially down compared with five years ago. These large stocks are mainly in the one country, with the other exporters in relatively strong shape.

Senator LAMBERT: There are certain imponderables; for example, the requirements of China. Have you any figures to show relating to the production of wheat by China itself apart from its requirement from us?

Mr. ESDALE: I have not recent figures, sir.

Senator LAMBERT: I suggest they are very large?

Mr. ESDALE: Yes.

Senator LAMBERT: I think it is around 600 million bushels. Anyway, one wonders about this continued import requirement from China of our wheat, and also of Australia as well. I think it is all to the good that this has developed. I only hope it will keep up. The whole question under article 12 of the agreement is whether any of this is transshipped into other places where Communist interests are involved. That is the question mark in everybody's mind; not that it is an insuperable obstacle at all. If you go into trade, naturally you do not adopt the ideology of the country you trade with.

Mr. MENZIES: Under the agreement with China they cannot reship to our commercial markets.

Senator LAMBERT: They are not supposed to anyway?

Mr. MENZIES: There are some markets outside what we call the commercial markets. But where we and our competitors are competing for commercial sales of wheat, the agreement says China is not free to reship to these markets.

Senator TAYLOR (*Norfolk*): In regard to article 6 of the agreement it is stated that the basic minimum and maximum prices shall be in Canadian currency per bushel at the parity for the Canadian dollar. I would like to know from some of the witnesses the effect our reduced currency will have on the price to the producer?

Mr. MENZIES: It will affect the price to the producer, decidedly, sir. For example, the new price range under the agreement is now \$1.62½ minimum and \$2.02½ maximum. At the rate of exchange at March 12 the minimum would be in Canadian dollars \$1.71½, and nearly \$2.14 maximum. This will alter with any change in the rate of exchange, but this has been holding fairly steady recently.

The CHAIRMAN: So actually the Canadian prices are higher than the ones indicated in article 6?

Mr. MENZIES: That is right.

Senator TAYLOR (*Norfolk*): Article 6 is quoting there in United States dollars?

Mr. MENZIES: Yes.

Senator TAYLOR (*Norfolk*): Well, there would be a depreciation in Canadian dollars?

Mr. MENZIES: Our dollars are at a discount, so the prices are higher.

Senator MACDONALD (*Queens*): Three or four years ago we had a tremendous surplus of wheat on the Canadian prairies. Bins were filled and the wheat was piled outside. What is the relationship of our carryover of wheat today in comparison to say two or three years ago? Have you figures on that?

Mr. ESDALE: While I am looking for those figures, Mr. Chairman, I might mention that as of today all delivery points are placed on an open quota out west.

The CHAIRMAN: Just this very day?

Mr. ESDALE: Yes, sir.

The CHAIRMAN: When you refer to "open quota", you might explain that term briefly.

Mr. ESDALE: For some years now, in actual fact since 1951-52, farmers have not been able to deliver all the grain that they desired to because of congestion, and the Canadian Wheat Board in order to ensure that farmers had a fair share of the available space would place the station on a quota so that farmers would move up equally in relation to the space available, and they have not been able to deliver all they would wish to deliver since the 1951-52 crop year; and as of today this is the first time in ten years the farmers have been able to deliver on an open quota—no quotas at all—and to deliver to what elevator they wished.

Senator ASELTINE: Is it wide open now?

Mr. ESDALE: Yes, sir. Starting at the crop year 1952-53, the carryover as of July 31, 1953 the end of the crop year, prior to the incoming crop, was 383.2 million bushels; 1953-54, 618.7; 1954-55, 536.7; 1955-56, 579.5; 1956-57, —and this is the record year—733.5; 1957-58, 639.4; 1958-59, 549.0 million;

1959-60, 537.6; 1960-61, 524.9. And as I indicated earlier, at the end of the coming July it will possibly be slightly under 300 million bushels.

Senator TAYLOR (*Norfolk*): What is the average over a ten-year period?

Mr. ESDALE: I could figure that out for you later, sir.

The CHAIRMAN: Would the average for the ten year period be close to say 500 million bushels roughly?

Mr. ESDALE: Yes, sir, very close.

Senator MACDONALD (*Queens*): I have a further question to ask, which I direct to Mr. Esdale. Supposing I were a wheat farmer at say Rosetown, where the Leader (Hon. Mr. Aseltine) comes from, and had 20,000 bushels of wheat. Could I move that into the elevators without any trouble, or any quotas, or anything else.

Senator ASELTINE: If there is space.

Mr. ESDALE: If there is space.

The CHAIRMAN: Mr. Gherson would like to make a comment in regard to article 12.

Mr. GHERSON: A question was raised with regard to the flexibility of article 12. I wish first to point out that article 12 is in fact a very flexible article, but it is also specific, and it only comes into operation in the event that an exporting country cannot fulfil its commitment when prices reach the maximum, in which case, by agreement of the council, it then transfers its obligations to another exporting country; it does not allow for the sort of freedom of reselling that perhaps the honourable senator was commenting upon.

Senator LAMBERT: What about paragraph 4 of article 12, which says:

The datum quantity of any country acceding under paragraph 4 of article 35 shall be offset, if necessary, by appropriate adjustments by way of increase or decrease in the datum quantities of one or more exporting or importing countries, as the case may be. Such adjustments shall not be approved unless each exporting or importing country whose datum quantity is thereby changed has consented.

Mr. GHERSON: That is right.

Senator LAMBERT: Well, that is specific enough, but it does leave the way open for a good deal of change in the percentages and also the available quantity.

Mr. MENZIES: May I give one example? I believe it was in 1958 that Australia had a very poor crop and found they were not able to meet their commitments under the agreement at that time, and by agreement Canada and the United States picked up their obligations.

The CHAIRMAN: I understand Senator Fergusson wishes to ask a question?

Senator FERGUSSON: Mr. Chairman, in the debate on the bill in the Senate yesterday, Senator Austin Taylor asked a question, and since he is not here today, I thought I might draw attention to it. He said, as appears at page 502 of Senate *Hansard*:

One thing that confuses me is the relationship of the votes. What happens when those of the exporting countries and those of the importing countries are equal and there is a tie vote?

I thought I might ask that question now so that he will get the answer to his question.

Mr. MENZIES: There have been successive agreements since 1949, and a formal vote has not taken place. There have been pretty hot arguments.



Mr. GHERSON: In answer to the honourable senator, I refer to article 29, under "Decisions":

Except where otherwise specified in this Agreement, decisions of the Council shall be by a majority of the total votes cast.

That means, when it comes to voting the exporting and importing countries do not vote separately. They may do if their interests are divided and to get an absolute division one way or the other, but it is by a majority vote.

The CHAIRMAN: Before closing, I think there was a question asked of Mr. Esdale in regard to the average carryover for the past ten years. He has given me the nine-year average, which he says is 567 million bushels.

Senator BLOIS: Is that considering the present crop year 1961-62?

Mr. ESDALE: No, it does not take in the estimate for this coming July.

The CHAIRMAN: That is an estimate.

Senator LAMBERT: I have one more question. Was any consideration given during this conference in Geneva to the impact of the European economic trading bloc requirements? Now, if that comes into effect later this year, I would think it might easily change the whole complexion of this International Wheat Agreement.

Mr. GHERSON: Mr. Chairman, the whole complexion of common agricultural policy of the European Economic Community was taken into account at the conference. In fact, the European Economic Commission was represented as an observer at the conference for those aspects which pertained to this question.

As a matter of fact, there was a provision in the 1959 agreement, already anticipating such developments, which permitted in the event of economic union taking place or arrangements preceding the establishment of an economic union, transactions above the price range or outside the price range to be recorded against the obligation of the exporting country and importing country, provided both countries so agreed. On this occasion the same provision is retained, and it is also an agreed conference document which says specifically that this provision is designed to cover situations that may arise from economic unions.

I would also add that this does not preclude countries, not members of that union, from selling to members of that union at that higher price, if circumstances so warranted.

Senator LAMBERT: May I interrupt? I remember Dr. Wilson, when he came back here from Italy, stating very emphatically the headway that had been made by these countries, Italy and France, in developing their own food requirements, including wheat. These developments had been far greater than the western world really appreciated. I am just wondering, while these percentages of importing countries which are in this table indicate what the situation might be, just how far that material fact which he mentioned would affect the future of this whole trading arrangement of the European bloc of six, if it went through. Do you think Dr. Wilson overstated the situation a bit by saying that the improved production—

Senator ASELTINE: France grows as much wheat as we do in the whole of Canada, and has been doing so for years.

Senator LAMBERT: Not in France alone, but in Algeria and France. I don't think France itself grows that much.

Senator ASELTINE: Oh, yes. I went through their wheat farms and they are bigger than some we have in Saskatchewan. They grow about 400 million bushels a year. I think that is correct, is it not?

Dr. MENZIES: It is very close to that. It is a very rough statement. They have about half the acreage we have in Western Canada but produce very close to the same amount of wheat because their wheat is of a higher yield. It is a soft wheat.

Senator ASELTINE: They have a yield of about 40 bushels to the acre.

Senator LAMBERT: France is not listed amongst the importing countries.

Senator ASELTINE: No, France is an exporter.

Dr. MENZIES: That is right.

The CHAIRMAN: Is there anything further? Are we ready to report? Shall I report that the committee recommends that the said agreement be approved by the Senate?

Hon. SENATORS: Agreed.

—Thereupon the committee concluded its consideration of the International Wheat Agreement.









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